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FROM: BROWN, J

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SUBJECT: REQUEST FOR DECLASSIFICATION REVIEW OF KENNEDY DEPOSITION AT POW/MIA HEARINGS

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TS-1340/DoD POW/MIA CDO  
National Security Council  
ATTN: Ms. Jenny Lampley  
Legislative Affairs  
Washington, DC 20506

6 October 1992

Dear Ms. Lampley,

Enclosed is the abstract of Mr. Kennedy's deposition. Please review it for declassification and return to the CDO. The CDO has already reviewed the abstract for DoD equities. If you have any questions about this abstract, please feel free to contact CDO Liaison Officer, Ms. Alice Tompkins at (703) 908-2861.

Sincerely,

1 Enclosure  
Kennedy abstract (TS)  
1 Cy

JOHN A. BROWN, Colonel, USAF  
Deputy Director, DoD POW/MIA  
Central Documentation Office

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Stenographic Transcript of  
HEARINGS  
Before the

SELECT COMMITTEE ON POW/MIA AFFAIRS

UNITED STATES SENATE

ABSTRACT OF DEPOSITION OF HON. RICHARD T. KENNEDY

Friday, May 29, 1992

Washington, D.C.

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1  
2 ABSTRACT OF DEPOSITION OF HON. RICHARD T. KENNEDY  
34 Friday, May 29, 1992  
56 U.S. Senate Select Committee on POW-MIA Affairs  
78 Pages: Matters Contained:  
910 1-10 Mr. Jim Hergan, an attorney of the Office of Legal  
11 Advisor, Department of State, accompanied Ambassador  
12 Kennedy. The normal documents and exhibits were  
13 marked. The WSAG notes were discussed and they were  
14 assured that none of those documents would be pursued,  
15 by special agreement today. However, they would be  
16 taken up at a later deposition.17 He attended the University of Rochester and  
18 Harvard Business School. He was a career Army officer,  
19 with 30 years, retiring in 1971. He immediately took a  
20 position as Deputy Assistant to the President in the  
21 National Security Council staff and served in that  
22 capacity until 1975.23 11-20 He served in World War Two in North Africa and  
24 Italy. He was detailed by the U.S. Army to the  
25 National Security Council in 1969 and he was called the  
Director for National Security Council Planning. Al  
Haig was his boss, who was the deputy to Kissinger. He  
was responsible for the NSC system. His job was to

1      Pages:      Matters Contained:

2      make sure that it functioned and decisions that needed  
3      the attention of the Council were brought to the  
4      Council and ultimately to the President. He basically  
5      served as a staff director to make sure all the  
6      paperwork was routed to the right people. It was his  
7      job to make sure that the analysis was done effectively  
8      and properly.

9      He did attend the WSAG meetings and he found that  
10     he often took notes there. From that point on, he was  
11     in charge of making sure the WSAG functioned properly.  
12     This started in 1969.

13     WSAG was basically a so-called "crisis management"  
14     kind of body. The attendance was very restricted, very  
15     often to principals only: someone from the Department  
16     of State, someone from Defense, Chairman of the Joint  
17     Chiefs of STaff, CIA. The President may have attended  
18     one or two times, but it was very unusual. Henry  
19     Kissinger would normally attend from the National  
20     Security Council. He had no participation in the  
21     Vietnam situation at all.

22     21-30     He never participated in the Paris Peace Accords.  
23     He participated only in paper drafting and the  
24     analytical work that was going on at various times.  
25     When Haig would be gone, he would serve in Haig's shoes

1      Pages:      Matters Contained:

2      and occupy his office. Most of these things were very  
3      closely compartmented. He knows that Bill Sullivan was  
4      involved in the negotiations. From the National  
5      Security Council, Kissinger, Winston Lord, John  
6      Negroponte, Dave Engel, Peter Rodman, Bill Stearman.  
7      He remembers that Negroponte left at some point. He  
8      first learned of Watergate in the newspaper, like  
9      everybody else.

10     Part of the inter-agency mechanism was the Senior  
11    Review Group. His involvement was to make sure that  
12    the review group worked. The Senior Review Group was a  
13    policy review. International economic issues would  
14    come before the Senior Review Group. President Nixon  
15    was the ultimate decisionmaker. Nixon was very  
16    involved, as he ordered the December bombing in 1972.

17     The method of communication was back channels.  
18    Dr. Kissinger had a fair degree of autonomy. He kept  
19    the President informed and sought his advice. The  
20    President had confidence in him. Often the President  
21    and Dr. Kissinger met alone. Occasionally Haldeman  
22    might be there. Vietnam was of intense concern during  
23    this time.

24    31-40    WSAG might discuss certain specific actions as to  
25    Vietnam and political, economic, and other tactical

1      Pages:      Matters Contained:

2      questions would be discussed. Both Peter Rodman and  
3      Winston Lord were major factors on the personal staff  
4      of Dr. Kissinger.

5      He remembers Frank Sieverts at State worked on POW  
6      matters. He doesn't recall POW/MIA information.

7      Usually the back channel cables -- there would be a  
8      phone call also on occasion between Kissinger and the  
9      President. The other means of communication were using  
10     the offices of Vernon Walters, who was the Army attache  
11     in Paris, and his successor.

12     They had a lot of input on speeches and various  
13     things. Kissinger would chop it up and rewrite it.  
14     Negroponte and Sullivan had some Vietnam experience, as  
15     did David Engel. Oftentimes Kissinger would return and  
16     then task other agencies for information. He believes  
17     Frank Sieverts gave them some information on POW's.

18     41-50     Normally the work was compartmentalized, very  
19     carefully so. This was done for security reasons.  
20     There would be a lot of oral briefings, and the  
21     President's attitude was he wanted to see the conflict  
22     terminated and he wanted to make sure that the U.S.  
23     interests were protected in all ways, and he wanted to  
24     be absolutely certain that it was not just the U.S.  
25     interest and that we were not in the process somehow

1      Pages:      Matters Contained:

2      humiliated.

3      There was a lot of tension in the United States  
4      during this time. Oftentimes when he would go to work  
5      there were barricades and there were demonstrators and  
6      the entire building would be surrounded. Sometimes  
7      they were going to send helicopters out to bring the  
8      staff in to work because you couldn't get in the  
9      building.

10     His office was in the Old Executive Office  
11     Building. He is sure the POW/MIA matter was very high  
12     on everybody's priority list. The President didn't  
13     trust the North Vietnamese very much. Kissinger was  
14     going to Vietnam and to Hanoi in February and he was  
15     invited to go along.

16     They went to Laos and they met with Mac Godley,  
17     who was the Ambassador. He had known Ambassador Godley  
18     from the Congo. He remembers that they had pictures of  
19     POW's and they laid them out on the table. Pham Van  
20     Dong, Le Duc Tho, Trac, and some others were there.  
21     They laid these pictures out.

22     Also, they showed them pictures of tanks and  
23     armored personnel carriers moving down. They called  
24     attention that this was a clear and obvious violation.  
25     He remembers the North Vietnamese looking at it. The

1      Pages:      Matters Contained:

2      North Vietnamese answer to this was that they were  
3      merely providing foodstuffs and necessary medical  
4      supplies to people in the north region. Ambassador  
5      Kennedy was personally insulted by this because they  
6      knew it was a lie, and they sat there and looked them  
7      straight in the face and told them.

8      51-60      Congress put a lot of pressure on the  
9      administration as they kept threatening to cut off aid  
10     and other things. There were a lot of meetings with  
11     House Minority Leader Gerald Ford. They were trying to  
12     maintain the support of Congress. There was a lot of  
13     pressure and emotion being built up against the war.

14     He thinks there was a discussion of the French  
15     experience. It was in the minds of a lot of people.  
16     But he can't remember with precision. He doesn't  
17     recall any discussion about the Sieverts paper. It may  
18     have happened, but he just doesn't recall it at this  
19     time.

20     The general view was to secure release of all  
21     prisoners held in Indochina as part of the overall  
22     package. He remembers the ICRC involved to some  
23     degree, but he doesn't remember the particulars. He  
24     remembers the controversy over Senator Kennedy getting  
25     a list, but that's about all. He thought it might

1      Pages:      Matters Contained:

2      been a trap.

3      61-70      There was lots of pressure by family members on  
4                   Dr. Kissinger and the President, lots of visits from  
5                   people. He did prepare the paper on reconstruction -  
6                   aid. This was prepared as part of the trip to go to  
7                   Hanoi. He thinks the reason he wrote the paper is  
8                   there was a lot of requests and demands from the North  
9                   Vietnamese delegates on what was reparation, what it  
10                  was going to be, how they were going to repair the  
11                  great damage that had been done to their country, and  
12                  in one way how they could return to normalcy. This was  
13                  just part of the total package.

14                  He can't remember the dollar figure. It was going  
15                  to be very big. Part of the paper was to try to  
16                  illustrate the various kinds of things that could be  
17                  done, and it didn't all mean cash, such as building  
18                  bridges and things like that.

19                  The troop withdrawals were approved by the  
20                  President of the United States. He believes the  
21                  reconstruction was raised in Paris. Those of us in  
22                  Washington were resolved that every aspect of the  
23                  agreement was going to be enforced, but shortly  
24                  thereafter it became clear we weren't going to do that.  
25                  We certainly didn't enforce the portion keeping the

1      Pages:      Matters Contained:

2      from the South.

3            They tried, under the theory the ARVN's were going  
4      going to be strong and they could protect themselves.

5            He thinks there was a continuous stream of violations.

6            He thinks there were some discussions about taking  
7      military action, but he remembers that would have been  
8      very limited in scope because of the situation in the  
9      United States.

10           There was an effort to educate the North  
11      Vietnamese on how our government differs from theirs  
12      and how the money would have to be obtained.

13      71-80      He cannot remember that there was ever a  
14      discussion of any end run around Congress. After being  
15      shown a copy of the letter of 1 February from President  
16      Nixon to the Prime Minister of North Vietnam, he  
17      recognizes the context. He remembers aid being  
18      discussed in the inter-agency context at NSC meetings.  
19      He remembers participating in drafting a paper which  
20      had to do with the subject matter, and he may have had  
21      some part in drafting of this letter.

22      81-90      Payment in connection with the release of U.S.  
23      POW's was not considered. The question of minesweeping  
24      was something raised in connection with the accords.  
25      He believes the reason the letter was dated 1 February

1      Pages:      Matters Contained:

2      was that Dr. Kissinger wanted to make sure the accords  
3      were complete, signed, and delivered, and that we had  
4      gotten the lists of prisoners before there was any  
5      indication that we were preparing to implement any  
6      other portion of the agreement.

7      He thinks the letter went back channel and was  
8      reproduced in Paris and delivered by hand. There were  
9      regular contacts between Walters and his successor and  
10     Le Duc Tho.

11     The North Vietnamese never came through with all  
12     of the things that they were obligated to do under the  
13     accords. Two years later they marched into South  
14     Vietnam and completely took over the country.

15     The Joint Economic Commission was set up in Paris.  
16     It was kind of a popular approach of carrying on  
17     certain kinds of relationships. He thinks that our  
18     delegation provided the North Vietnamese with kind of a  
19     primer paper, a description of how our constitutional  
20     process worked for obtaining Congressional approval for  
21     aid.

22     He has heard that the North Vietnamese were  
23     meticulous on notetaking and recordkeeping, almost  
24     meticulous to a fault. Our leverage seemed to be  
25     eroding each week. He does recall minesweeping being

1      Pages:      Matters Contained:

2      one of our strongest methods of getting compliance.

3      91-100      He believes both Nixon and Kissinger were  
4                   disappointed that there wasn't an agreement before the  
5                   election. He remembers a call at Thanksgiving in '72.  
6                   The President instructed him to send Kissinger some  
7                   things in his name. The message to Kissinger was:  
8                   Buck up, stand tall, keep at it; we want to be tough on  
9                   this. It was an unusual type message from the  
10                  President.

11                  There was an enormous uproar in the country over  
12                  the December bombing. The President was just not  
13                  visible. He saw him every day and the President was  
14                  confident, quiet and relaxed.

15                  Oftentimes you initial first and then both sides  
16                  make sure the text conforms to the other. He believes  
17                  the accords were signed in both French and English.  
18                  When he went with Dr. Kissinger to Hanoi in February of  
19                  '73, he was present during most of the discussions.  
20                  They took place in the headquarters building. They  
21                  spent three or four days in Hanoi -- Dr. Kissinger,  
22                  Ambassador Sullivan, John Holdridge, Winston Lord, and  
23                  Peter Rodman.

24                  As far as aid being discussed there, Kissinger  
25                  went through a lot of indexes and how there would be an

1      Pages:      Matters Contained:

2      exchange on this particular thing. The atmosphere was  
3      cordial in some senses, cool in others. He knows that  
4      POW's was discussed, but he just can't recall the  
5      details. He does remember some testy exchanges between  
6      Kissinger and Pham Van Dong.

7      Vietnam was not the only thing that they were  
8      working on. While it was a major preoccupation, there  
9      were many other events going on in the world.

10     101-110    He remembers a great deal of frustration and  
11      irritation over the POW situation. One of the actions  
12      they could take was they could stop the minesweeping.  
13      Of course, they could always renew bombing, but that  
14      had a lot of potential problems.

15      The problem with bombing was, number one, we'd go  
16      back to war, we would risk more KIA's and more POW's,  
17      and that might not get anybody else out. His personal  
18      impression was our frustration was pretty severe. He  
19      remembers talking about the Joint Economic Committee  
20      and it was clear in the U.S. judgment the North  
21      Vietnamese were not carrying out their responsibilities  
22      under the accords. Very soon there were many  
23      violations.

24      We were not in a very good position to continue  
25      active hostilities. The drawdown had reached a very

Pages:      Matters Contained:

low level and we didn't have much leverage. Without muscle you can't do much.

A ceasefire is a ceasefire. Observe Yugoslavia. It's only as good as the will of both sides to maintain it. There was a lot of Congressional pressure during this time.

The China trip was in the offing. He remembers a problem with the India-Pakistan War. Also, things were developing vis a vis NATO.

At NSC they were basically divorced from any political type of things. The President's staff wanted it that way and so did Kissinger.

111-120 He remembers when Kissinger went over to get the President to sign his letter of resignation. He and his wife were invited to the ceremony when the President left office.

He doesn't think the Pathet Lao necessarily felt themselves as lackey of the Vietnamese, although the Vietnamese thought they were. In regard to Admiral Moorer's message, he feels that that message would have been cleared with the President, Dr. Kissinger would have been aware, and so would have been the Secretary of Defense. This type of decision would have been made by the President, Kissinger, and Laird.

Pades:      Matter's Contained:

2            The message of 23 March went to CINCPACFLEET. The  
3            addressees on both messages are a little different and  
4            he doesn't have an explanation. He doesn't recall  
5            receiving these messages before.

6            At WSAG meetings there was a lot of discussion on  
7            Laos, but he doesn't recall any specific POW  
8            discussion. He remembers hearing about Dr. Shields'  
9            statement, but not in any detail. He had contact with  
10           Secretary Clements, but he doesn't remember any  
11           discussion on POW's.

12           127     He feels Hanoi made all of the important  
13           decisions. Le Duc Tho would communicate with them and  
14           sometimes even go to Hanoi. When Dr. Kissinger went to  
15           Hanoi in February, he did approach the North Vietnamese  
16           on POW issues. There was a whole series of issues that  
17           were discussed. One of them clearly was the POW issue.  
18           There was some irritation and frustration.

19                        (End of abstract.)

20  
21  
22  
23  
24  
25

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Stenographic Transcript of  
HEARINGS  
Before the

**SELECT COMMITTEE ON POW/MIA AFFAIRS**

**UNITED STATES SENATE**

DEPOSITION OF MELVIN LAIRD

PART 2

~~TOP SECRET~~

Wednesday, September 16, 1992

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## DEPOSITION OF MELVIN LAIRD

2

3

Wednesday, September 16, 1992

4

5

## PART 2

6

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24      \*\* All Exhibits retained in the custody of the National  
25      Security Counsel.

1                   [Whereupon, at 11:12 a.m., the deposition of  
2                   Melvin Laird proceeded, following a recess, to discussion  
3                   of National Security Council documents.]

4                   BY MR. KRAVITZ:

5                   Q. One of the things that the Committee is most  
6                   interested in having your viewpoint on is really both the  
7                   quantity and the quality of intelligence information that  
8                   the U.S. Government had regarding POWs and MIAs in each of  
9                   the various Indochinese countries leading up to and at the  
10                  time of the signing of the Paris Peace Accords.

11                  I'll tell you the reason why we're interested.  
12                  As you may know, and I'm sure certainly you knew at the  
13                  time, when the lists of U.S. prisoners were exchanged on  
14                  January 28, first the lists from the DRV and PRG, and then,  
15                  on February 1, the list of U.S. prisoners supposedly from  
16                  Laos, there was a great deal of concern about the  
17                  completeness of those lists.

18                  There were 56 men who were officially carried as  
19                  POW by the services, or at least it was recognized  
20                  immediately that there were 56 men officially listed as  
21                  POWs by the services whose names did not appear on any of  
22                  the lists, and there were certainly concerns about  
23                  additional MIAs in Laos whose names didn't appear on the  
24                  list.

25                  What we really haven't been able to pin down yet

1       is how good was the intelligence indicating that those  
2       people who were listed POW but whose names didn't appear on  
3       the lists really were prisoner of war. In other words, how  
4       can we interpret those discrepancies based on the  
5       intelligence information that was available?

6                  That's a ridiculously long question, but I just  
7       wanted to let you know that's really why we're asking that  
8       question.

9                  A. Well, I think we had fairly good intelligence,  
10       the best we could get at that particular time through human  
11       intelligence and through signal intelligence. The best  
12       intelligence we had was our [REDACTED] of course, and we did  
13       increase the number of people [REDACTED]

14                  And I'm not sure what we brought that up to in  
15       the time period you're talking. I think I mentioned  
16       earlier that we had really identified, probably through  
17       [REDACTED] almost 500 or so, I think. I can't give you the  
18       exact number. At one time or another, we had [REDACTED]  
19       [REDACTED] and when I first -- the number of individuals,  
20       it's hard for me to recall exactly what those numbers were.

21                  At one time or another, we had probably in the  
22       neighborhood of 500 or so reports of parachutes opening and  
23       things like that. Now they were confirmed by intelligence  
24       that the parachutes did open and people were landing. In  
25       that dense jungle, it was pretty hard to tell what happened

(b)(1)  
1,5(c)

1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED] that's why they thought  
6 Son Tay was the best place, and they felt that it could be  
7 carried out there.

8 And when I authorized the Son Tay operation it  
9 was well along before I even told the President about it.  
10 I told the President about it after the thing had been set  
11 up and getting ready, probably after a couple of months. I  
12 remember I told the President the day that Nassar was  
13 killed or died.

14 We were over in the Mediterranean at the Sixth  
15 Fleet, and I had a nice visit with him that night, and I  
16 told him that we were going forward, and he didn't say yes,  
17 he didn't say no. But he said he understood.

18 If you're faulting the intelligence, the best --  
19 we had pictures of Son Tay. Are you getting at Son Tay  
20 now?

21 Q. Not specifically. I'm more interested really in  
22 the quality, your view of the quality of the intelligence  
23 really in all four of the countries -- North Vietnam, South  
24 Vietnam, Laos, and Cambodia.

25 A. I'd like to have had better intelligence up in

1 to them necessarily when they went on the ground,  
2 particularly up in Laos and in certain portions of North  
3 Vietnam.

4 It was very difficult. And I don't fault the  
5 intelligence community. I think the number is in the area  
6 of about 500 or so. I can't give you the exact figure.

(u)(1)  
1.5(c) 7 And then I think our confirmations by [REDACTED]  
8 were in the area -- you're talking about '72 -- '71-'72? I  
9 think confirmation by [REDACTED] so that we knew exactly that  
10 they were alive [REDACTED] was about 375,  
11 maybe up to 400 of those 500 parachute openings.

(u)(1)  
1.5(c) 12 Q. Do you recall whether there was a substantial or  
13 significant number of [REDACTED] who had not previously  
14 been believed to be prisoner of war?

15 A. We had some. We had some that showed up, and we  
16 made them POWs. They'd been listed as missing. You've got  
17 those figures, and I think when I became Secretary of  
18 Defense, the number of POWs that were identified by [REDACTED]  
19 was in the neighborhood of 150 to 170, in that general  
20 area. Those figures are certainly all available to you,  
21 though.

22 Q. Right.

(u)(1)  
1.5(c) 23 A. That's the greatest confirmation you have. See,  
24 those [REDACTED] were important to me, too. You wanted to  
25 know why we made the Son Tay raid. I can tell you.

1 North Vietnam. I mean, there's no question we would like  
2 to have had better intelligence. Some of the best  
3 intelligence we had in the north was through [REDACTED]  
4 [REDACTED] That was  
5 probably the best information we had.

6 Q. In other words, [REDACTED] regarding U.S.  
7 prisoners who'd been captured?

8 A. Well, and also [REDACTED]

9 Q. You mean [REDACTED]  
10 [REDACTED]

11 A. Yes, [REDACTED]  
12 [REDACTED]

13 Q. Can you give us an idea of what some of those  
14 other means were?

15 A. Well, I don't know how far you want to go on  
16 this, [REDACTED]

17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED] You understand  
20 that.

21 Q. I didn't know that.

22 A. Yes. And so that was good intelligence, and it  
23 was very good intelligence. We had good intelligence out  
24 [REDACTED]

25 [REDACTED]

(b)(1) 1.5(c) 1

[REDACTED] that's good intelligence.

2 I can't fault them for it. They did a hell of a  
3 job on that. [REDACTED]

(b)(1) 1.5(c) 3

4 [REDACTED] -- and I would put those questions  
5 to them real hard, because I'd bring [REDACTED] in. I'd  
6 bring him in on Monday and Friday and just sit him down,  
7 one on one, and he was my man over there.8 And I told him, if you do a good job, you'll be  
9 wearing a fourth star; if you don't do a good job, you'll  
10 be going out in retirement. And he did a good job.11 Bennett did a good job as head of DIA, and he went out with  
12 four stars. I sent him to Korea. I had to do that in  
13 December before I left. I had to take care of these people  
14 who had been good, and [REDACTED] did a good job for me.  
15 Bennett did a damn good job for me and DIA.16 Now sure, there's a lot of things we'd have liked  
17 to have known that were going on up in the north, but they  
18 were getting pretty good information up there.19 Q. How much involvement did you have, if any, in the  
20 actual classification by the services of lost servicemen  
21 either as KIA, MIA, or POW?22 A. No, I didn't get into the classification  
23 business. Each service had that responsibility. I made it  
24 clear to the chief of each service and made it clear to  
25 each service secretary. They understood that, and I

1 outlined that to them in the Airlie meeting, and I also  
2 outlined that to them regularly in our meetings that we  
3 had.

4 I met with each chief at least twice a week, and  
5 I met with each service secretary. They could come in to  
6 see me any time, but I always had an individual meeting  
7 with them twice a week. And I think they understood that  
8 that was their responsibility.

9 I didn't get personally into the classification.

10 Q. Did you have any oversight role in terms of  
11 setting standards for the strength of evidence needed in  
12 order for someone to be classified officially as POW?

13 A. No, but I talked to each of the intelligence  
14 chiefs of each of the services about that, and I tried to  
15 get them to agree among themselves. There was always a  
16 little problem. The Air Force had a little different  
17 concept than the Navy did. I think you have probably  
18 become familiar with that.

19 Q. Actually, why don't you tell us what the  
20 differences were?

21 A. They were a little different, and I always tried  
22 to get them to try to standardize their classifications,  
23 and they moved in that direction, but, you know, each  
24 service had its own ideas once in a while.

25 Q. Were you satisfied that the classification of a

1       lost or missing serviceman as POW, at least in general, was  
2       based on strong, credible evidence back in the 1971-72 time  
3       period?

4           A. I really didn't have a good feel for that. I  
5       never really was sure of that. The best evidence that I  
6       got, that I was always glad to see, another person show up

(b)(1) 7                   That really was the greatest evidence you  
1.5 (C) 8       had, if you could get [REDACTED] I don't care  
9       whether they [REDACTED] or who  
10      they came from, and in that time period we probably had --  
(b)(1) 11     I don't know, what did we have -- [REDACTED]

(C) 12     Q. I don't know what the numbers were.

(b)(1) 13     A. At least [REDACTED] and I think [REDACTED]  
1.5 (C) 14                   [REDACTED] And it was always good  
15      to get that. That was good information to get, because  
16      that was a confirmation that you knew was good, because you  
17      could recognize [REDACTED] and  
18      that was real important.

19           But I'm not trying to say that our intelligence  
20      was perfect. It was not. We had a lot of problems with  
21      intelligence in the north and in Laos.

22     Q. I want to get to that subject in a moment.

23     A. But the intelligence we had was pretty good, too.  
24     We had some good intelligence up there.

25     Q. Before we get to that subject, let me just ask

(u)(1),5  
(C)

1 you one more question. You spoke before about some [REDACTED]  
2 [REDACTED] that led to the decision to  
3 conduct the raid at Son Tay. Were there [REDACTED]

(u)(1)  
1.5(C)

4 [REDACTED]  
5 [REDACTED] that were providing information to the  
6 government on other POWs in the system?

7 A. The only thing -- that was very hard to do in

(u)(1),5  
(C)

8 [REDACTED]  
9 [REDACTED] It took them a long  
10 time to do that. There were, at times, information on how  
11 many people were there. We knew how many people were in  
12 Son Tay at a given date, to the best of the [REDACTED]

(u)(1)  
1.5  
(C)

5

14

13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]

(u)(1),5  
(C)

16

17

18

Q. I want to talk a little bit about the problems or  
perceived problems --

19

A. We got information [REDACTED]

(u)(1),5  
(C)

20

21

[REDACTED] which was very important.

22

23

24

25

Q. I want to talk a little bit about the problems or  
perceived problems with intelligence on POW/MIA-related  
intelligence in Laos and North Vietnam. Why don't we start  
with Laos? What were the problems that you referred to in  
Laos relating to POW and MIA intelligence?

1           A. Well, the North Vietnamese in the areas where  
2       most of our losses were, that were controlled by the North  
3       Vietnamese, as you know, and the North Vietnamese were  
4       taking those prisoners. You'll find, I think, in all your  
5       records that most of those Laotian shootdowns, the POWs  
6       that were taken there and those that were missing in  
7       action, whether they were shot -- we know some of them were  
8       shot -- and they wouldn't move them around. They'd get  
9       tired of moving them around or doing things like that.

10          But there were very few, we thought, at that time  
11       that were under the control of the Laotians because that  
12       was really pretty much occupied territory. There were  
13       several tribes, as you know. There are four or five  
14       different groups up there at that particular time.

(u) (1)  
1.5(C)  
15          But even [REDACTED] I think, was turning over most  
16       of those people, when he could, to the north.

17          Q. Certainly all of the Americans who were captured  
18       in Laos who ended up being released during Operation  
19       Homecoming, the historical fact is that all of them were  
20       captured by the North Vietnamese army and then actually  
21       held in Hanoi for the great majority of the time they were  
22       held POWs.

23          A. There are probably some we thought may be there,  
24       though, under the control of the north even after some of  
25       those transfers were made. We got some [REDACTED] from people  
(u) (1) 1.5  
(C)

(b)(1)  
1.5(c)

1 that had been shot down in Laos who later showed up with  
2 [REDACTED] from Hanoi. You know about those. I can't give  
3 you their names. But there were quite a few of those.

4 Q. What were our intelligence assets in Laos that  
5 could be used for tracking POWs and MIAs?

(b)(1)  
1.5(c)

6 A. Well, we had [REDACTED] and things  
7 like that. Most of the assets that were used to get  
8 [REDACTED] and things like that were from outside of Laos.

(b)(1)  
1.5(c)

9 Q. In 1971, if you have any problem remembering  
10 this, I can show you some documents --

11 A. Yes, you'll have to show me a lot of documents  
12 because I don't remember all of the documents from '71.

13 Q. We're not going to ask you to read this whole  
14 package of paper.

15 A. No. But I hope that you will track down my  
16 morning notes made by General Pursley because then you'll  
17 know. We decided at those morning meetings, if it had to  
18 do with Vietnam, what would be done that day or what orders  
19 would be issued.

20 I didn't go over the bombing orders for the day  
21 until in the evening. That was a different group that I  
22 did that with, and that was always usually at about 4:30  
23 I'd go over. And, by the way, I'm going to tell people  
24 this in public, I never turned down any target requested by  
25 the military in Vietnam. I may have delayed it a day or

1       two because of some diplomatic problem, but there was never  
2       a target or a recommendation for military action that was  
3       ever turned down by me.

4           Q.    Why don't I mark this?

5           A.    I approved them. If I approved them, you'll find  
6       my initials on them all.

7                   [Discussion off the record.]

8           Q.    I'm marking as Exhibit 5 a document dated  
9       September 9, 1971, which is a memorandum from you to the  
10      Chairman of the Joint Chiefs of Staff, Subject Intelligence  
11      Collection Support for Laos, and it's actually one of a  
12      series of documents that I want you to look at.

13                  Just for the record, this appears at page 270 in  
14      a set of files which is marked JCS Archival Material, OSS-  
15      92-4471.

16                   [The document referred to  
17                   was marked Laird Exhibit No.  
18                   5 for identification.]

19                  And, as you'll see when you look at this, you  
20      indicate in this document and as well in what I'm marking  
21      as Exhibit 6, which appears at the next page, a letter that  
22      you sent to Secretary Rogers on the same date, that there  
23      are some serious concerns about the intelligence gathering  
24      in Laos.

25                   [The document referred to

3                   Specifically, you say that there are insufficient  
4                   intelligence assets in Laos and that that insufficiency is  
5                   hindering our efforts to recover prisoners of war and  
6                   missing in action personnel.

7 [Pause.]

8 A. Yes. I'm sure I was concerned about this.

9 Q. There are some other documents in there that I  
10 can point you to that may refresh your memory as to how you  
11 came to writing these memos.

12 A. I don't get what the question is.

13 Q. Actually, let me ask you to read one other  
14 document, which is at pages 289 to 291. It's a memo from  
15 the Joint Chiefs of Staff.

16 [The document referred to  
17 was marked Laird Exhibit No.  
18 7 for identification.]

19 A. I agree that these are documents I signed.

20 Q. Do you remember addressing the problem of POW  
21 intelligence problems in Laos?

22 A. I was concerned from time to time that we weren't  
23 getting as much information and as good information as we  
24 could from our embassy up there.

Q. One of the things that's indicated in Exhibit

1       Number 7 --

2           A. That's why I sent General Vessey up there, you  
3       know.

4           Q. Well, let's back up. One of the things in  
5       Exhibit Number 7, which is marked, which is the JCS memo  
6       from July 13, 1971, the one at page 289, not the one you're  
7       looking at right now, is that the U.S. Embassy in Laos was  
8       reported to be reluctant to accept resources, intelligence  
9       resources, from CINCPAC, and that there was a concern that  
10      this reluctance on the part of the U.S. Embassy in Laos had  
11      resulted in there being really little reliable information  
12      on the status of, I think, at that time more than 280  
13      personnel who had been lost in Laos.

14          A. I think I said 250 in my memo. But in the JCS  
15      they had raised it to 280.

16          Q. Do you remember what this was all about?

17          A. Sure. I remember the problems that we had in  
18      Laos.

19          Q. This is the first we've heard of them, so can you  
20      help us understand what they were in terms of the  
21      reluctance of the embassy?

22          A. Well, I felt that the embassy up there felt that  
23      it was operating an independent operation, and they were  
24      not fully cooperating from time to time. I made that  
25      known.

1           Let's see. Sullivan was up there at one time,  
2       and then Godley was up there at one time.

3           Q. Sullivan was there from 1964 to 1969, and Godley  
4       was there from 1969 to '73.

5           A. And Sullivan came back over here. I think it was  
6       in '69. I expressed concern about that to the Secretary of  
7       State, because it was his operation, [REDACTED] and the Secretary  
8       of State. Godley was reporting to the Secretary of State,  
9       supposedly.

10          And as far as the military situation was  
11       concerned, it got kind of -- I was concerned about that,  
12       and I sat down with Abrams when I was out there on one of  
13       my visits and suggested we get a better person up there as  
14       far as the military. That's when we sent General Jack  
15       Vessey up there.

16          Q. What were the problems in the intelligence  
17       gathering in Laos, and in what ways had the embassy been  
18       uncooperative with the military?

19          A. I didn't think we were getting enough information  
20       on the POWs and the missing in action out of that embassy  
21       at the time, because they had opportunities to make contact  
22       with the natives and other people there, and we weren't  
23       getting much human intelligence at the time.

24          Q. When you say "we," do you mean the Defense  
25       Department wasn't getting the information or that the

1 entire government simply wasn't getting it?

2 A. I meant that we in Defense weren't getting it.

3 Q. So, in other words, you didn't know for sure  
4 whether the embassy might have the information and not be  
5 giving it to you, or whether they just didn't have it?

6 A. Well, I thought by sending these letters and  
7 memos that maybe that would shake them loose a little bit.

8 Q. Was there any positive effect of the memos and  
9 letters that were being sent around in the summer and fall  
10 of 1971?

11 A. I can't recall whether there was a positive  
12 improvement or not. I was always concerned about the  
13 intelligence coming out of Laos and the fact that I didn't  
14 think we were getting as much information as we should have  
15 from the ground in Laos.

(b) (1) 16 Q. What about [REDACTED] How was the

1.5 17 [REDACTED] coming out of Laos compared to, say,  
(c) 18 the [REDACTED] that you've described in North  
19 Vietnam?

20 A. North Vietnam was much better.

21 Q. Was that because we had, [REDACTED]

(b) (1) 22 [REDACTED], or because we just were  
1.5 (c) 23 getting [REDACTED]

24 A. Well, I think there was a lot more activity up  
25 there, too. So it was easier to get information when

1 there's more activity.

2 Q. What was your purpose in sending General Vessey  
3 to Laos?

4 A. Well, that, the decision of Vessey going to Laos  
5 was really as a result of conversations we had in General  
6 Abrams' quarters, along with the Chairman of the Joint  
7 Chiefs of Staff and myself.

8 We were sending a lot of material up there and we  
9 really didn't think it was being disbursed properly, that  
10 it was being distributed properly.

11 Q. What type of material was that?

(b)(1)  
1.5(c) 12 A. Well, this was material which the [REDACTED]  
13 for certain operations that were going on in Laos.

(b)(1)  
1.5(c) 14 It was transfers from Defense to the [REDACTED]  
15 [REDACTED] up there, and Vessey went up there. And, I tell  
16 you, the accounting became much better after Jack Vessey  
17 got up there.

18 Q. When was that, that General Vessey went to Laos?

19 A. I can't give you the dates. You must have the  
20 dates when he was there.

21 Q. Do you think it was about the same time that  
22 these cables --

23 A. In this general area.

24 Q. So, 1971?

25 A. In this general timeframe. But I can't give you

1       the exact dates.

2                  Do you have the dates here?

3                  MR. CODINHA: When General Vessey was in Laos?

4                  THE WITNESS: Yes.

5                  MR. CODINHA: I don't have that. No, we don't  
6       have that.

7                  THE WITNESS: I can't recall the exact dates.

8                  BY MR. KRAVITZ:

9                  Q.     There are some indications in some of those  
10      documents, particularly the JCS memo, which is at pages 289  
11      to 291, that we marked as Exhibit No. 7, there are some  
12      indications in there which I think are ambiguous, at least  
13      to an unschooled reader like me, as to, really, what the  
14      reason was that the embassy in Laos was not being  
15      particularly helpful, that they had concerns.

16                  A.     Now the Embassy in Laos was not reporting to me,  
17      you know.

18                  Q.     I understand that.

19                  A.     So perhaps you could say it was easy for me to be  
20      critical, and it was, because I was critical at times. And  
21      I think you'll find that in these memos.

22                  Q.     Okay. But this one's not your memo. So this is  
23      someone else being critical as well.

24                  A.     This comes from the Joint Chiefs, but, I mean,  
25      they reflect, I worked pretty closely with the Joint Chiefs

1 and the Chairman.

2 Q. What was your understanding back in 1971 and in  
3 the time period surrounding that year as to what was  
4 causing the reluctance of the U.S. Embassy in Laos and  
5 perhaps [REDACTED] with which it was working to be  
1,5 (c) 6 uncooperative in providing intelligence information on  
7 POW's and MIA's in Laos?

8 A. Well, I felt at the time that it wasn't a high  
9 enough priority. But I wasn't there and I'm not going to  
10 sit in judgment on whether there were higher priorities or  
11 not.

12 Q. One of the things that we've been wondering about  
13 was, in your opinion, was their failure, or let's call it a  
14 failure to provide more intelligence information on POW's  
15 and MIA's, in any way related to the fact that this really  
16 was a [REDACTED] rather than by the  
1,5 (c) 17 military?

18 A. That may have had some -- I don't have any direct  
19 evidence of that, but that may have had a bearing.

20 Q. One of the things that has been abundantly clear  
21 to us throughout this entire process is that the Defense  
22 Department always seemed to be the agency that was most,  
23 most concerned about POW's and MIA's because it was their  
24 people.

25 A. Well, it should be their concern.

1           Q. And rightly so.

2           A. It should be the concern of the Defense  
3         Department. It should be the concern of everybody. But it  
4         was our primary responsibility, and that's why it went  
5         public.

6           Q. That's what I was wondering about, whether there  
7         was some lower level of concern or maybe a lower priority  
8         among the people who were running the war in Laos. That's  
9         really what I'm getting at, whether you noticed that.

10          A. Well, you always came back with the feeling that  
11         they thought everything, as far as the POW thing, the POW  
12         situation and the MIA situation, was in the hands of the  
13         North Vietnamese. They always gave the impression that  
14         anyone that was alive was turned over to the North  
15         Vietnamese and it wasn't a Laotian problem.

16          Now, I was not there. I'm sure that there were  
17         people not turned over.

18          Q. You're sure that there were people captured by  
19         the Pathet Lao and not turned over to the North Vietnamese?

20          A. I'm sure that there probably were some shootings,  
21         too.

22          Q. Well, let's break this down.

23          A. I mean I'm not, I can't, I don't have any first-  
24         hand evidence, but I'm not positive in my mind that every  
25         prisoner was turned over to the North Vietnamese. But I

1 think the feeling up there was that they all were being  
2 turned over to the North Vietnamese.

3 Q. Okay. Just so the record is complete, when you  
4 say "the feeling up there," you mean in the U.S. Embassy?

5 A. Yes.

6 Q. So, in other words, you did not necessarily  
7 disagree with the position of the U.S. Embassy or the sense  
8 in the U.S. Embassy that all prisoners captured in Laos  
9 were either captured by the North Vietnamese Army or turned  
10 over to the North Vietnamese.

11 Is that accurate?

12 A. I think probably that is accurate, that the vast  
13 majority of them were.

14 Now, I didn't believe that all of them were at  
15 any time.

16 Q. Why not?

17 A. Because I just felt that there was an opportunity  
18 in that particular area that some of those groups may have  
19 kept a prisoner or two, because they might have felt that  
20 it might be some bargaining chip at some future time.

21 I don't have any real evidence of that, but I  
22 also had the feel that that could have happened, and that's  
23 why I was after better intelligence.

24 You see, I can't assure you that everyone was  
25 turned over to the North Vietnamese. I think the embassy

1 up there felt that almost everyone was turned over.

2 Q. You said that after General Vessey went to Laos  
3 in 1971 or approximately in 1971 --

4 A. Yes. I can't give you the exact date of when  
5 Jack Vessey went up there. But it was in that general  
6 area.

7 Q. -- whenever it was, you said that the  
8 intelligence, or at least the reporting of the  
9 intelligence, improved.

10 A. Can you give us an idea of how that improved?

11 A. I think that after we got on them, they did try  
12 to do a better job in 1971 and 1972. I can't just give you  
13 any examples. But I think they got the word that this was  
14 something that we expected them to cooperate in.

15 Q. There was a meeting of the Washington Special  
16 Action Group on January 29, 1973. You were not at --

17 A. In 1973.

18 Q. You were not at that meeting. But I want to tell  
19 you about some statements that some other people, some  
20 other DOD people made, and just see if you know what they  
21 based on.

22 A. Just tell me who they were, though.

23 Q. They were Admiral Moorer and Admiral Murphy --

24 A. Okay.

25 Q. --who were both there. Admiral Murphy was there

1       on behalf of the Defense Department and Admiral Moorer was  
2       there for the Joint Chiefs.

3                  Just to place this in time for you, again, the  
4       Accords were signed on January 27, and on that day, we  
5       received the DRV and PRG lists of U.S. prisoners to be  
6       released. But we had not yet received the Laos list, which  
7       we didn't receive until February 1, 1973. And so, there  
8       was a discussion at that WSAG meeting about, both about the  
9       reactions to the Vietnamese lists that had been turned over  
10      and about expectations for the Laos list that was supposed  
11      to be turned over within the next few days.

12                 In that discussion, Admiral Moorer stated that he  
13       expected that there would be about 40 people on the Laos  
14       list when it was turned over. Admiral Murphy spoke about  
15       having observed some aerial photography of caves which were  
16       very large and he said were much bigger than you would  
17       expect to see if there were only six prisoners of war.  
18       That was the number that the services carried formally as  
19       prisoners in Laos at the time.

20                 Admiral Murphy said that he expected that there  
21       would be 40 to 41 on the Laos list when it was released.

22                 Do you have any, I mean, do those numbers ring a  
23       bell to you?

24                 A. Well, you know, in general they do. I can't tell  
25       you whether, the specific number I'm not sure. I think we

1       felt there were some there. But, I mean, I can't verify  
2       the number exactly.

3           Q.   Do you know --

4           A.   Admiral Murphy was there representing me?

5           Q.   Were you still the Secretary of Defense on  
6       January 29, 1973?

7           A.   No, I don't think so.

8           Q.   I don't think so, either.

9           A.   But who was he representing?

10          Q.   The Department of Defense.

11          A.   He was a Military Assistant of mine.

12          Q.   Right.

13          A.   He wouldn't be representing the Department of  
14       Defense.

15          Q.   Well, he was. He was, and I can show you --

16          A.   He should have been representing Secretary  
17       Richardson.

18          Q.   I'm sure he was.

19          A.   That's who he should have been representing,  
20       because to the Washington Special Action Group I would  
21       always send my Deputy, David Packard, and it's unusual that  
22       Admiral Murphy was there.

23          Q.   All right. I know he was there.

24          A.   Oh, I'm not disputing you.

25          Q.   Right. He was, I think he went to a lot of these

1       while Secretary Richardson was in that position.

2           A.   And the Deputy didn't go?

3           Q.   Oh, he did. I mean, Deputy Clements went, along  
4       with Murphy.

5           A.   Oh. I thought --

6           Q.   I just don't think Clements had been confirmed  
7       yet at this point, and Clements may have been there as  
8       well. The point is it was Murphy.

9           A.   Well, I can understand Murphy there as a backup  
10      witness.

11           I'm not disputing it. I never sent Murphy or  
12      Pursley to a Washington Special Action Group meeting. I  
13      would send a civilian.

14           Q.   This was a meeting, it was right after the  
15      Accords were signed. It was right after some of the lists  
16      had been turned over. Mr. Eagleburger was there. Mr.  
17      Shields was there. There certainly were several lower  
18      Pentagon officials.

19           A.   Eagleburger at that time was Acting Assistant  
20      Secretary of Defense for ISA and Larry Eagleburger is a  
21      long-time friend. His mother was my first campaign  
22      chairman in Portage County, Wisconsin. I mean, I watched  
23      him grow up as a little boy. He's been my, I've helped him  
24      all through his career.

25           But Eagleburger could have been there. I'd have

1 sent Eagleburger. But I wouldn't send a military  
2 representative.

3 It's just a little strange. I always sent a  
4 civilian to represent me on the Washington Special Action  
5 Group.

8 Q. Let me mark this as the next exhibit.

9 A. I'm not disputing this at all.

10 Q. I understand. I just want you to look at it. It  
11 may give you a better sense as to what he was doing there.

12 MR. KRAVITZ: I'm marking as Exhibit 8 the  
13 minutes or at least the redacted version of the minutes  
14 from the January 29 WSAG meeting and they indicate that Mr.  
15 Eagleburger and Mr. Murphy were both there on behalf of  
16 DOD, and Admiral Moorer and Admiral Wynell were there for  
17 the JCS.

18 [The document referred to  
19 was marked Laird  
20 Exhibit No. 8, for  
21 identification.]

22 BY MR. KRAVITZ:

23 Q. The more important question from our perspective  
24

A. Really. I think the important representative was

1        Larry Eagleburger. He was just backing him up, Dan Murphy,  
2 because I'm sure that Richardson would have sent a civilian  
3 to represent him. You might not think that's important,  
4 but as far as the civilian control issue is concerned in  
5 Defense, where you have those kinds of meetings, you do  
6 want to be represented by a civilian.

7           Q. That fact, though, doesn't necessarily make what  
8 Admiral Murphy says less credible.

9           A. No, no. And I have great respect and admiration  
10 for Admiral Murphy. I mean, I hired him and brought him in  
11 from the fleet. And no, I'm not quarreling with you on  
12 that thing.

13          Q. On page 8 of the minutes, Admiral Murphy says,  
14 "We don't know what we will get from Laos. We have only  
15 six known prisoners in Laos, although we hope there may be  
16 40 or 41. We have known very little about the caves where  
17 they keep the prisoners in Laos. We just got the first  
18 photos of those caves recently, and our impression is that  
19 they are pretty big. We think they're holding a lot more  
20 than six prisoners there."

21          Does that refer, does that statement refer to  
22 information that you were familiar with before the time  
23 that you left your position as Secretary of Defense?

24          A. No.

25          I think that the figure when I left was a little

1 lower than that.

2 Q. Do you remember what it was?

3 A. I think that I used the figure in January of 1971  
4 of five, and it seems to me I used the figure of 20 in  
5 January of 1972, when I left. Now I may be, you know, I'm  
6 trying to recall.

7 Q. When you say "you used the figure," what do you  
8 mean?

9 A. Well, as far as when I, disussing the matter of  
10 the POW's and where they were.

11 MR. KRAVITZ: Let's go off the record for a  
12 minute.

13 [Whereupon, at 12:00 p.m., the deposition  
14 recessed, to resume at 1:00 p.m. the same day.]

1

## AFTERNOON SESSION

2

(1:20 p.m.)

3

WHEREUPON,

4

MELVIN LAIRD,

5

the witness herein at the time of recess, called for  
examination by the Senate Select Committee on POW/MIA  
Affairs, having been previously duly sworn by the Notary  
Public, was further examined and testified as follows:

9

THE WITNESS: We'll go back to the 40, then.

10

BY MR. KRAVITZ (Resuming):

11

Q. Why don't we go back to that subject.

12

Secretary Laird, if you had anything that you  
wanted to add to the discussion of the number 40 or 41 that  
we were talking about based on conversations you may have  
had over lunch, that would be great.

16

A. No, I haven't anything further to add. I do not  
know where they could get 40 confirmed.

18

Q. Okay. One of the things that you said right  
before we went back on the record was that your assumption  
was that there really was no list of 40 and that this must  
have been an estimate.

22

A. I believe it must have been an estimate. As far  
as my knowledge, it must be an estimate, because I know of  
no confirmed list of 40 POW's verified, substantiated, in  
Laos.

1           Q. I can tell you that, as of January, 1973, the  
2 services officially carried six people as POW in Laos.

3           A. When I left, they carried five.

4           Q. You said something before lunch, however, about  
5 the number 20 sticking in your mind.

6           Do you know where that number came from?

7           A. You know, if you're trying to estimate it, I've  
8 heard that figure used. I had not heard 40 used. I heard  
9 20 used. But that is strictly, you know, a ballpark  
10 estimate. I'm sure that there probably were some in Laos.  
11 I can't have, I have no reason to believe there weren't  
12 some there. But I do not, I cannot give you a number.

13          Q. My question is when you heard the number 20 used,  
14 was it your understanding, then, that that was simply an  
15 estimate based on statistics or some other factor, rather  
16 than on hard intelligence data?

17          A. I knew it was not based on hard intelligence. I  
18 think hard intelligence, as far as I was concerned, the  
19 hard intelligence was five or six.

20          Q. And when you mean hard intelligence, when you say  
21 hard intelligence, you mean letters, or photographs, or  
22 other --

23          A. Yes.

24          Q. -- essentially foolproof evidence that someone  
25 was in captivity?

1           A. Yes.

2           Q. Was it your understanding that that type of hard  
3         evidence was necessary throughout Indochina for all of the  
4         services in order for someone to be listed POW?

5           A. They were approximately the same. There were  
6         some variations, but approximately that's correct.

7           Q. But was the intent of the POW classification, the  
8         formal POW classification by the services, generally to  
9         indicate -- I mean, in other words, if someone was listed  
10       POW formally, was that, can we expect, can we rely that  
11       that would have been based on --

12          A. You have to be careful with the term "POW,"  
13         because it raised a greater level of expectation on the  
14         part of families, and children, and friends, and so forth.  
15         They were careful about the use of it because it did raise  
16         expectations to a very high level.

17          Q. And so, they were careful that the evidence was  
18         strong?

19          A. Yes. They tried to be careful.

20          Q. Would we be correct in understanding, then, that  
21         where there was doubt, as a general rule, where there was  
22         doubt about whether someone was a prisoner or war or not,  
23         the tendency was to put that person into an MIA status,  
24         rather than into a POW status?

25          A. I think that would be reasonable to assume.

1           Q. One of the things we spoke about before lunch was  
2       your efforts to gain improvement in the intelligence on  
3       POW's and MIA's in Laos in the early 1970's, and you told  
4       us that after --

5           A. Even after 1970 I was concerned about it.

6           Q. What I meant to say was in the early 1970's; so,  
7       really, throughout the rest of your term as Secretary of  
8       Defense. What recommendations did you make, if you can  
9       recall, to improve the intelligence gathering mechanisms in  
10      Laos?

11          A. I tried to ride the State Department and ride the  
12      Ambassador to do a better job of getting intelligence out  
13      of there.

14          Q. Were there specific recommendations or  
15      suggestions that you made as to how they could do that?

16          A. Well, to use all the assets that they had  
17      available, and I didn't think that we were getting enough  
18      information out of there for the number of people we had  
19      there.

20          Q. One thing I wanted to show you was I found a able  
21      that you send in 1971 to the U.S. Embassy in Cambodia,  
22      essentially making suggestions to that embassy which appear  
23      to be similar to the ones that you made to the embassy in  
24      Laos, although it's much more specific in terms of the  
25      suggestions that you made in Cambodia than any document

1 I've seen related to Laos. I want to show it to you and  
2 see if these are suggestions that are the same suggestions  
3 that you made to the U.S. Embassy in Laos.

4 If it refreshes your memory, I'm going to mark as  
5 Exhibit 9 this next document, which appears at pages 320  
6 and 321 of the JCS files that we referred to earlier, OSS-  
7 92-4471.

8 [The document referred to  
9 was marked Laird Exhibit No.  
10 9 for identification.]

11 I think, from a document that's on the previous  
12 page, I think this indicates this is from March of 1971,  
13 but it's a cable from the Secretary of Defense to the  
14 American Embassy in Phnom Penh, Subject, PW Priorities in  
15 Cambodia, and it's two pages long, if you want to take a  
16 minute to review that and tell us if it refreshes your  
17 memory as to specific recommendations that you made either  
18 in Cambodia or in Laos.

19 [Pause.]

20 A. Well, that's a good way of getting information.  
21 I'm sure that this is the sort of thing I would have wanted  
22 carried out in Laos, too. Those are good recommendations,  
23 by the way. They sound good today.

24 Q. Just for the record, in this cable you asked that  
25 the Embassy give highest priority possible under the

1 present circumstances to the collection and reporting of  
2 information identifying where U.S. POWs are held in  
3 Cambodia.

4 A. I also, in the first part of it, make it clear  
5 that this is the highest priority as far as our government  
6 is concerned.

7 Q. And then, in paragraph 3, you make specific  
8 recommendations of specific actions which could be taken to  
9 obtain prisoner of war information.

10 A. Those are pretty good recommendations.

11 Q. One of the recommendations you make at paragraph  
12 A here is, a systematic effort to obtain information on  
13 U.S. PWs from villagers of areas where U.S. planes have  
14 been shot down or where U.S. personnel were last seen.

15 Let me first ask you, is that a recommendation  
16 you recall making to the U.S. Embassy in Laos at around  
17 this time, 1971?

18 A. I may have made that -- I know I made that  
19 recommendation them. I'm not sure if it was in '71, but  
20 in general conversations this was one way of getting in and  
21 talking to the villagers and getting information, human  
22 intelligence, and that's the best way to do it, whether  
23 it's in South Vietnam -- in South Vietnam, too, it's  
24 important.

25 Q. Was it your perception -- and again I want to

1 focus on Laos -- was it your perception during the time  
2 that you were Secretary of Defense that our government was  
3 not making a sufficient effort in Laos to obtain  
4 information on prisoners from villagers in areas where U.S.  
5 planes had been downed?

6 A. I was not getting as many reports from them as  
7 I was getting in other places, particularly in South  
8 Vietnam. We were getting pretty good reporting, human  
9 reports.

10 Q. Did that situation ever improve during your  
11 tenure as Secretary of Defense, in Laos again? In other  
12 words, did the number of reports from villagers in local  
13 areas increase?

14 A. I cannot recall a tremendous increase of reports  
15 from villagers coming to my attention from the Embassy in  
16 Laos. Now if you have evidence that I was getting a lot of  
17 reports, I don't recall getting an improvement in  
18 reporting.

19 Q. I don't have any evidence that you did or you  
20 didn't. That's why we're asking you. I'm not trying to  
21 trick you. I'm just trying to find out.

22 A. I understand. I really don't recall any  
23 improvements. And that's why when you go from 20 to 40 in  
24 such a short period of time, from '71 to the end of '72, I  
25 don't know where that -- unless there was a great

1 improvement of intelligence, I don't know how you got to  
2 that figure or how Admiral Murphy did.

3 Q. Another recommendation that you make with regard  
4 to the intelligence situation in Cambodia in this cable is  
5 at paragraph B, and you write: Development of intelligence  
6 assets specifically tasked to secure and verify information  
7 on current location and identification of PWs.

8 What exactly did that mean?

9 A. You mean the tasking?

10 Q. What do you mean by developing intelligence  
11 assets particularly or specifically tasked to find  
12 locations of PWs?

13 A. That's taking natives and getting them working  
14 for you, and having them as scouts. It's better to use  
15 local people to do that kind of work, than it is anybody  
16 else you can put in there to do it. You can use human  
17 sources that way, and I was encouraging that.

18 Q. Did you make a similar recommendation to the U.S.  
19 Embassy in Laos during your time as Secretary of Defense?

20 A. I imagine they even got a copy of that. Are they  
21 copied on that?

22 Q. Yes, American Embassy, Vientiane, is on the  
23 address list.

24 A. I'm sure I did. I'm sure I would not keep them  
25 off that kind of a cable, because that was a standard

1 policy, to get information.

2 Q. Was it your perception -- I'm sorry. I didn't  
3 mean to interrupt.

4 A. As far as Cambodia is concerned, there weren't as  
5 many people shot down over Cambodia or captured in Cambodia  
6 as there were in Laos. I think probably there must have  
7 been -- I don't know. I can give you a figure, but if I  
8 say 255, it's not a fixed figure. Let me say maybe 300  
9 were shot down over Laos or captured in Laos or lost in  
10 Laos.

11 I don't know what happened to them, but we've got  
12 some figure in that general area, I think, as far as Laos  
13 is concerned, and I think many of those were turned over,  
14 if they were alive, were turned over to the North  
15 Vietnamese, from the intelligence that I got, as I recall  
16 it.

17 Q. Was it your perception during your tenure as  
18 Secretary of Defense that there was a less advanced  
19 development of these intelligence assets, really the  
20 indigenous personnel, in Laos and Cambodia than in North  
21 and South Vietnam?

22 A. We had a pretty good system in the south. We did  
23 some work along that line in the north, as I am sure you  
24 are familiar. I think that we did, probably, develop some  
25 of that capability in Cambodia by the time I left Defense.

1           I never was completely satisfied with the  
2 development of that capability in Laos.

3           Q. Did you see any improvement in that area after  
4 you recommended that it be improved?

5           A. Well, I'm sure there was some improvement. I'm  
6 sure there was. I don't like to say that they didn't pay  
7 any attention to my messages.

8           Q. Another recommendation you make is that leaflet  
9 drops in the local language be made in such areas seeking  
10 information on specific men downed or last seen in those  
11 areas, and asking that information be brought to  
12 appropriate officials.

13           Was that a recommendation that you made in  
14 relation to Laos as well?

15           A. Well, I'm sure that Laos got that recommendation.  
16 I'm sure they were copied on those. And I was after them  
17 all along for better intelligence information.

18           Q. Do you know if leaflet drops were used in Laos?

19           A. I don't know. I do not recall whether they were  
20 or were not.

21           Q. Another recommendation that you made is  
22 systematic interviewing of refugees from denied areas to  
23 determine their knowledge regarding the capture, survival,  
24 and location of U.S. personnel.

25           Was this something that was made good use of?

1       Was this a tactic that was made good use of in Laos?

2           A.    You see -- I hope it was.  I'm not sure.

3           Q.    You mean because you're not sure that you were  
4       actually being given all of the information that was  
5       available to the Embassy?

6           A.    I had much better communications in South Vietnam  
7       than I did with the [REDACTED] in Laos, and so to ask  
8       for me to say they improved substantially, I hope they  
9       improved substantially, but I cannot prove that.

(a)(1)  
1.5(c)

10          Q.    It sounds to me like maybe the bottom line of all  
11       this is not so much that the embassy in Laos was not  
12       obtaining information, but, rather, that whatever  
13       information they had they were not sharing with the Defense  
14       Department as openly as perhaps they should.  Is that an  
15       accurate summary of what you're saying?

16          A.    No, I don't know that as a fact.

17          Q.    Was that the sense that you had?

18          A.    I had a sense that we weren't getting the best  
19       intelligence information out of Laos on POWs and missing in  
20       action.

21          Q.    Okay.  And you're not sure whether the reason was  
22       the intelligence information was never obtained or that it  
23       was just not transmitted to you?

(a)(1)  
1.5(c)

24          A.    [REDACTED]

25          [REDACTED]

1 Q. So your expectation is that the problem was that  
2 the information simply was never obtained?

3 A. I don't know. [REDACTED]

(b)(1)

1.5(c)

5 Q. I'm not meaning to imply anything. I thought  
6 that was something that you were implying, but if I'm  
7 wrong, I misunderstood you.

8 A. All along I felt that they weren't doing a good  
9 enough job out there in Laos. But it never occurred to me  
10 that they were doing a good job and not giving me the  
11 information until today.

12 Q. I didn't mean to imply that to you. I thought  
13 that was an undercurrent in what you were saying, but I  
14 obviously misunderstood you.

15 A. I have no reason to believe [REDACTED] wasn't giving  
16 me the information they had on POWs and MIAs. I had a very  
17 good relationship with them, and I had gotten to know them  
18 well over the years. I had been on the special five-Member  
19 committee when we only had five Members in the House on it.

(b) (1)

1.5(c)

20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]  
23 [REDACTED]

24 Q. Well, I didn't mean to plant that in your mind  
25 because I don't have any reason to believe that they were

1        doing that either. I just thought that that was what you  
2        were saying.

3        [REDACTED]

4        [REDACTED]

5        [REDACTED]

6        [REDACTED]

7           A. Weren't getting as much intelligence as I thought  
8        we should be getting, if they had followed the guidelines  
9        we had laid out to get this information.

10          Q. And even after you complained and made  
11        recommendations for how to improve the situation, it never  
12        got as good as you wanted?

13          A. It may have improved some, but it never was as  
14        good as I would have liked to have seen it.

15          Q. You've said a couple of times that your belief  
16        was that prisoners or most of the prisoners captured in  
17        Laos were turned over to the North Vietnamese. Our  
18        information is that, of the 350 pilots who were shot down  
19        in Laos and became MIAs, there were 10 who were released  
20        during Operation Homecoming, all of whom --

21          A. Were in the hands of the South Vietnamese.

22          Q. North Vietnamese.

23          A. North Vietnamese.

24          Q. Are those the people that you are referring to  
25        when you say that you believe the prisoners were turned

1 over to the North Vietnamese, or is that belief from some  
2 other source?

3 Our information is that those 10 prisoners were  
4 actually captured by the North Vietnamese in Laos, and  
5 therefore were not turned over to the North Vietnamese.

6 A. Well, it was mostly North Vietnamese operating up  
7 there, as you know. Repeat your question.

8 Q. Did you have information indicating that  
9 prisoners were captured by the Pathet Lao in Laos and  
10 turned over to the North Vietnamese?

11 A. We had information that there prisoners turned  
12 over to the North Vietnamese. We did have that  
13 information.

14 Q. Because our information about the 10 people who  
15 were released, supposedly from Laos, were that they were  
16 not captured by the Pathet Lao and turned over to the North  
17 Vietnamese. Rather, they were captured by the North  
18 Vietnamese army in Laos and transferred to North Vietnam  
19 for detention, but that there was never any turning over  
20 from the Pathet Lao to the North Vietnamese for those 10  
21 prisoners who were released.

22 So it makes it sound, the information that you're  
23 recalling makes it sound as if there were additional  
24 prisoners captured in Laos by the Pathet Lao who were  
25 turned over to the North Vietnamese.

1           A. I don't know just exactly where they were  
2         captured, the people that were released. I wasn't  
3         Secretary when the release took place, and I have no  
4         information as to exactly who captured them.

5           But it is my understanding that I was always  
6         advised by Laos, the embassy in Laos, that they thought  
7         most of the people that survived were turned over to the  
8         North Vietnamese. That was what they reported to me.

9           Now there were a lot of people lost in Laos. I  
10        mean, probably there were 550 or so people. I can't give  
11        you the exact figure.

12        Q. It was right around 600.

13        A. But there were quite a few. And I cannot, from  
14        the intelligence information I had, I can't tell you how  
15        many of them survived.

16        Q. The information that's been made available to us  
17        and has been included in Defense Department memoranda after  
18        the time that you left the Pentagon was that approximately  
19        350 of the 600 or so pilots who were shot down over Laos  
20        were lost under circumstances which indicated that the  
21        communist factions in Laos, whether they were NVA or Pathet  
22        Lao, should have been able to provide us with information  
23        about what happened to these people.

24        A. We had photoreconnaissance missions, as you know.  
25        You probably have those pictures. We kept running them all

1       the time in there. They are very difficult to run because  
2       that's a very mountainous country. If you go down to get  
3       in close to get into that underbrush and so forth at a very  
4       low altitude, you endanger those pilots quite severely.

5           Q.    What is your opinion as to whether photoimagery  
6       or aerial photography of caves is an accurate way of  
7       determining how many prisoners might be inside the cave?

8           A.    I don't know how you do that. As I told Senator  
9       Fulbright at the time of the Son Tay raid, we haven't  
10      anything that will see inside of roofs.

11          Q.    We're obviously going to ask Admiral Murphy  
12      tomorrow about his statement in the WSAG, but it appears  
13      almost as if he is saying there must be a lot of people in  
14      those caves because they are big caves, and that's just  
15      kind of -- if that's the only thing, it seems like a  
16      strange basis.

17          A.    Well, I don't understand his testimony as you  
18      gave it to me, that there were 40, and then Admiral Moorer  
19      says 41. I'm just at a loss to understand how that  
20      happened on the first of February of 1973 or in that area.

21          Q.    Actually it was Moorer who said he hoped there  
22      were 40, and Murphy said they were expecting 40 to 41.  
23      Well, hopefully we'll find out.

24          A.    Well, you tell Dan that I'm glad he's got some  
25      sort of a see-through machine.

1           Q. Who knows? Maybe they had one by January 1973  
2        that was brand new.

3           A. Dan's a fine military officer, really, and I have  
4        great respect for his estimates. But I don't want to be  
5        held to a specific figure like that.

6           Q. What about Cambodia? I know that you were  
7        concerned that the intelligence wasn't as good as it could  
8        have been or should have been. But how good was it, and  
9        what did it tell us?

10          A. In Cambodia?

11          Q. Yes.

12          A. Well, we were in and out of Cambodia a little  
13        easier, and we were having exchanges, and the South  
14        Vietnamese were across the border often, as you know,  
15        talking to villagers. And we had much better access to  
16        Cambodia.

17          Q. Did you have information that we had prisoners,  
18        live prisoners in Cambodia?

19          A. We had reports of that, held by the North  
20        Vietnamese, not held by the Cambodians, though.

21          Q. Held by the NVA in Cambodia?

22          A. Yes. We had reports on that, and I always tried  
23        to get to the bottom of those reports as reasonably  
24        expeditiously as possible.

25          Q. You write in this cable from March 1970, Exhibit

1 Number 9, the one that I showed you just a minute ago:  
2 information about and recovery of all U.S. prisoners of war  
3 from Indochina is a matter of foremost national importance.  
4 17 U.S. military personnel have been lost in Cambodia, and  
5 may still be held there. Other U.S. PWs may be held in  
6 Cambodia after their capture in South Vietnam or may be  
7 moved through Cambodia on the way northward.

8 A. I think that's true.

9 Q. Do you know whether there ever was a number of  
10 confirmed POWs in Cambodia?

11 A. I had no fixed number confirmed.

12 Q. As I'm sure you know, we never got any back from  
13 Cambodia during Operation Homecoming or at any point after  
14 that. Did you have information that the prisoners who were  
15 believed to be in Cambodia were being killed, or do you  
16 have any other information as to what happened to them?

17 A. No, I don't. I imagine certainly some of them  
18 were killed, but I assume that some of them did go north.

19 Q. In other words, were brought up to Hanoi?

20 A. Yes.

21 Q. Or to South Vietnam?

22 A. Or to South Vietnam, yes.

23 Q. I take it those would have been prisoners who  
24 were held by the NVA initially in Cambodia who were brought  
25 north, or could those have been prisoners held by the Khmer

1      Rouge as well?

2      A.    Either way.

3      Q.    Was it your understanding that the North  
4           Vietnamese, the DRV, had a similar relationship with the  
5           Khmer Rouge that they had with the Pathet Lao in terms of  
6           control?

7      A.    I did not think it was quite as good.

8      Q.    There was a more controlling relationship with  
9           the Pathet Lao than the Khmer Rouge?

10     A.    Yes.

11     Q.    After you complained about the state of the  
12          intelligence coming out of Laos and Cambodia, did you ever  
13          enlist the assistance of the White House to try to improve  
14          the intelligence in those countries?

15     A.    Oh, I certainly did. I assume even that message  
16          I sent to the embassy went to the White House, too, wasn't?  
17          I'm sure I did. There's no question that I complained  
18          about that quite a bit, and certainly to the State  
19          Department too.

20       I think you will find that I jumped the Under  
21          Secretary of State as well as Sullivan on intelligence  
22          quite often, particularly as far as Laos, because I figured  
23          Laos was their operation, [REDACTED]

24     Q.    That one cable that you sent to Cambodia is not  
25          copied to the White House.

1           A. Okay. Must be to State, though.

2           Q. Yes.

3           A. I don't think I'd be sending it without sending  
4         some copy to State, because I'm sending it to their  
5         ambassador. I'm very careful about that.

6           Q. I want to ask you a few questions about a  
7         different time period, December 1970, when the DRV passed  
8         what became known as the Kennedy list, a list of prisoners  
9         of war acknowledged by the DRV at that time. According to  
10       our records, there were 26 military personnel who were  
11       formally carried as prisoners of war, classified as  
12       prisoner of war, whose names did not appear on the so-  
13       called Kennedy list.

14           Do you recall that?

15           A. I recall the discussions of it, yes.

16           Q. What were the discussions about that list that  
17         you recall?

18           A. Well, as to its completeness

19           Q. Do you remember who you had discussions about  
20         that with?

21           A. We discussed it at our Vietnam task force group.  
22         It was a significant list. It was important.

23           Q. Was the incompleteness of the Kennedy list  
24         something that was discussed between you, Dr. Kissinger, or  
25         President Nixon?

1           A. I recall -- I do not recall whether we discussed  
2        -- whether the incompleteness of the list was discussed  
3        with them. I think you'll find there's a memo in there, I  
4        think to the President, to Kissinger, relating to that it  
5        wasn't complete.

6           Q. We don't have a memo. We've never seen a memo  
7        from you to the President and the National Security Advisor  
8        on that subject.

9           A. Well, I'm sure we discussed it. Maybe I didn't  
10      send a memo, but it seemed to me that I did.

11          Q. I'm told there's a memo dated 23 December 1970,  
12      which was the date that the list was first being analyzed.

13          A. From me?

14          Q. From the President indicating that the list --  
15      from Dr. Kissinger to the President indicating that the  
16      list should be analyzed and was going to be analyzed.

17          A. I'm sure we analyzed it. And I think that was  
18      done in Defense. I think we analyzed it in Defense, and  
19      there was no memo sent by me.

20          Q. The fact that I haven't seen it doesn't mean it  
21      doesn't exist. We just haven't seen it.

22          A. Well, maybe I did it verbally then, but I thought  
23      perhaps we did analyze that and send a memo on it.

24          Q. Is there any question that the analysis of the  
25      Kennedy list was information important enough that you

1       would have transmitted it to the White House?

2           A.    Absolutely.

3           Q.    Did you believe that the Kennedy list was  
4       complete at the time it was provided to us?

5           A.    Well, of course I hoped it was complete, and I  
6       felt it probably was. I mean, I always hoped that there'd  
7       be more, you understand.

8           Q.    I understand that perfectly well. I guess what  
9       I'm more interested in is, did you actually believe that  
10      the list was incomplete?

11          A.    Oh, I think I probably did. Maybe my hope was  
12       running, surpassing my judgment, but I had hoped it was  
13       incomplete.

14          Q.    Did your belief and hope that the Kennedy list  
15       was an incomplete list give you any ideas or really teach  
16       you and others in positions like yours any lessons as to  
17       any special requests we should make in the negotiations in  
18       Paris regarding prisoner exchanges?

19          In other words, did we conclude or did you  
20       conclude from your belief that the Kennedy list was  
21       incomplete that we needed to do something and have some  
22       assurances in the agreement to make sure that the prisoner  
23       exchange and any lists --

24          A.    Right up to the end I was pressing for that.

25          Q.    Pressing for what?

1           A. For a better understanding on the POW thing as  
2 far as the agreement was concerned.

3           Q. What do you mean?

4           A. Well, I didn't think we were getting the  
5 assurances, and I felt that we were in a position where  
6 they hadn't lived up to the Geneva Accord on POWs for four  
7 years, and that you just couldn't accept anything on the  
8 POW/missing in action because of their record.

9           Q. What did you think that we needed to have in the  
10 Paris Peace Accords, in the agreement, to make sure that  
11 the problem --

12          A. I would like to have had the names.

13          Q. Let me just finish the question so the record is  
14 complete. What did you think that the United States  
15 Government needed to have in the formal Accords to make  
16 sure that the experience of an incomplete list that we got  
17 in December 1970, when the list was given to Senator  
18 Kennedy, was not repeated following the ceasefire?

19          A. Well, I'm not sure it had to be written out in  
20 the Accords, but I certainly would want some protocol  
21 agreement on the side containing hopefully that we could  
22 have the names of the people being held.

23          Q. You mean before?

24          A. Before the signing.

25          Q. Was that something --

1           A. And, you know, I talked about that. The first  
2         time I talked about that was on, must have been on Face the  
3         Nation or Meet the Press in 1969. I tried to make that  
4         point, and I think if you'll go back and get the transcript  
5         of that I said no agreement unless you take care of that,  
6         because of the failure of them to live up to the Geneva  
7         Accords on which they were a signator.

8           And I never changed my position on that.

9           Q. Did you specifically suggest to Dr. Kissinger  
10         during the negotiation period that he insist that we have a  
11         list of names of POWs?

12          A. I kept insisting on that right along, all the  
13         time, and also there were other things in the Accords that  
14         I didn't like.

15          Q. Do you remember what Dr. Kissinger's response  
16         was?

17          A. He was always, we're taking care of that, taking  
18         care of that. And I assumed that he was doing his best. I  
19         had no controversy with Dr. Kissinger. He had very strong  
20         opinions, but we have respect for one another.

21           We had bad fights over the bombing of Cambodia.  
22         We had a tremendous fight over that, and he won, because he  
23         wanted to keep it secret and I didn't want to keep it  
24         secret, because there were 10,000 people involved. How do  
25         you keep a bombing secret when you've got 10,000 people

1 involved? So they thought I leaked the Cambodia bombing,  
2 and he called me up and accused me of it as soon as it  
3 appeared in the New York Times.

4 We did go after each other.

5 Q. One of the things that we have noticed --

6 A. You know, Rogers went with Kissinger and the  
7 President went on their side and directed it be secret,  
8 which was a bad mistake.

9 Q. Going back to the issue --

10 A. I'd like to get into that a little more, if you  
11 want.

12 Q. I want to go back to the issue of your suggestion  
13 that we have an advance list of prisoners before the  
14 ceasefire and withdrawal.

15 A. We were always looking for that. We were  
16 pressing not only through government to government but  
17 through the International Red Cross. We were pressing for  
18 that all the time.

19 Q. I understand. Let me finish my question. One of  
20 the things that we've noticed by studying the negotiation  
21 record is that initially it was the U.S. negotiating  
22 position that all prisoners not only should be named and  
23 listed --

24 A. That was part of it. I don't think that was ever  
25 changed. That directive, as far as the negotiating

1 strategy, was never changed.

2 Q. Please let me finish my question. It initially  
3 was the U.S. position, negotiating position, that we should  
4 get our prisoners not only named and listed but actually  
5 returned either two or four months before the troop  
6 withdrawal was begun, the final troop withdrawal was begun  
7 and the ceasefire commenced.

8 A. That latter part was changed, but not the first  
9 part. That was never changed in the negotiating position.

10 Q. I don't think that's right. In the final  
11 Accords, the way the Accords were written was that there  
12 would be a ceasefire the day that the Accords were signed,  
13 and then later that day the lists of prisoners would be  
14 exchanged and over the next 60 days the prisoners --

15 A. But that was what was finally negotiated, but  
16 that wasn't the negotiating position as we understood it  
17 here in Washington.

18 Q. That's what I want to ask you about.

19 A. The negotiating position was not changed. The  
20 Accord changed the negotiating position that was signed in  
21 Paris.

22 Q. You may not have been told about what really  
23 happened in Paris, because for months before the Accords  
24 were signed the U.S. was agreeing with the DRV position  
25 that the lists should be exchanged on the day of the

1       signing of the Accord, within hours of the ceasefire.

2                  What I wanted to ask you was -- I don't think I  
3       need to ask you whether you think that was a good idea or a  
4       bad idea. You clearly think that was a bad idea. But what  
5       I do want to ask you is, do you understand how we got from  
6       our initial position to the position that we ultimately  
7       agreed to in the Paris Peace Accords?

8                  A. Well, I understand how negotiations take place.  
9       I wasn't part of the negotiating team, but I understand how  
10      that could have taken place in negotiations. You mean did  
11      I approve it? I didn't approve it in advance or anything,  
12      but I certainly understand how something like that can take  
13      place in negotiations.

14                 Q. Did you know that Dr. Kissinger had accepted the  
15      position that was ultimately incorporated in the Accords  
16      before the Accords were signed -- in other words, that the  
17      lists would not be exchanged until after the Accords were  
18      signed and the ceasefire was begun?

19                 A. I'm not sure when I first learned of that, that  
20      they had negotiated that position. I think that that was  
21      negotiated weeks before the thing was signed, the actual  
22      Accord was signed, though.

23                 I don't think that was done on the last day. I  
24      think I was informed probably about two weeks that that had  
25      been negotiated. But I'm not sure it's the date that

1       you've given me. Don't hold me to the date.

2           Q. Actually, for several months before the Accords  
3       were signed --

4           A. I don't recall the date, but there was an  
5       agreement, I know, that was reached, but I cannot tell you  
6       the date of when Dr. Kissinger agreed to that on behalf of  
7       the United States. You've probably got the date, though,  
8       haven't you?

9           Q. We have documents which show various positions.  
10       It's a confused negotiating history because in September of  
11       1971 Dr. Kissinger says we want the prisoners all released  
12       two months before the troop withdrawal and before the  
13       ceasefire.

14          A. That was our position, a going-in position.

15          Q. Then, in 1972, at some point it gets up to four  
16       months, and basically our position is --

17          A. I cannot give you the dates of those positions  
18       that were taken over in Paris, but I think that I knew  
19       about it prior to the date of the signing of the Accord.  
20       But I thought it was probably two or three weeks before,  
21       because there was an evolution of that thing somehow in  
22       there, from a year to four months.

23           I think you'll find that I got in touch and there  
24       was some objection that I made to the change in there.

25       Have you got that message?

1           Q. An objection to the change?

2           A. To moving so far away from the original  
3           negotiating position.

4           Q. I have not seen that. And you think it's an  
5           objection that you would have voiced in January of '73?

6           A. No. I think that that would have been voiced  
7           probably in September of 1972.

8           Q. So, in other words, shortly before the near  
9           settlement in October?

10          A. That's when we were moving in that direction, and  
11          I think they moved all the way probably in October. But  
12          those are approximate dates and times. You know, it's  
13          almost 20 years ago, and it's hard to give you the exact  
14          dates and times.

15          MR. CODINHA: Let's go off the record for a  
16          moment.

17           [Discussion off the record.]

18          THE WITNESS: You know, the negotiating track,  
19          which is very important, is very important, was followed by  
20          the Department of Defense as best we could, but that really  
21          was the primary responsibility of the Department of State,  
22          and if the President wanted to delegate some additional  
23          responsibility to someone else, as he did to Kissinger,  
24          that was his business.

25          We were not part of that negotiating team. You

1 understand that.

2 BY MR. KRAVITZ:

3 Q. I understand that.

4 We have a memo here that I've marked as Exhibit  
5 Number 10, dated April 16, 1971, from Dr. Kissinger to the  
6 President, and the subject is Dr. Kissinger's meeting with  
7 the North Vietnamese on August 16, 1971.

8 [The document referred to  
9 was marked Laird Exhibit No.  
10 for identification.]

11 In pertinent part, Dr. Kissinger tells the  
12 President, "he made a shift in their POW position, agreeing  
13 to the exchange of lists at the time of settlement and also  
14 in effect agreeing to release all our men held throughout  
15 Indochina. This pretty well pins down agreement on this  
16 question."

17 I think it's clear that this document -- this  
18 document makes clear that back in August of 1971 Dr.  
19 Kissinger had already walked backward from the initial U.S.  
20 position and was really almost advocating rather than just  
21 agreeing to, advocating the position that the lists should  
22 be exchanged only on the day of the settlement.

23 Were you aware that Dr. Kissinger had backed off  
24 from the initial U.S. position a year and a half before the  
25 Accords were signed?

1           A. I don't recall that I was.

2           Q. I assume that that's something you would have  
3 voiced disapproval of, had you been aware of it.

4           A. I certainly did not realize the negotiating  
5 position had changed a year earlier. I thought our  
6 negotiating position changed in, I thought, around  
7 September of the next year.

8           Q. It's actually very unclear. There is this  
9 document which indicates that that subject really was  
10 pinned down as of August 1971. There are later position  
11 papers that we've seen from April and June of 1972 where  
12 we're back to the position that we have to get all our men  
13 back either two months or four months, depending on the  
14 various papers, before the withdrawal is completed.

15          A. I was not aware of that position that I can  
16 recall. Was I copied on that?

17          Q. I don't think so. I think this was just Dr.  
18 Kissinger to the President.

19          A. Well, sometimes he did, though. And then we'd  
20 have a weekly meeting. We'd have breakfast together and  
21 he'd fill in on something. But I don't recall that.

22          Q. How informed were you and other senior Cabinet  
23 officials of the secret negotiations that were going on in  
24 Paris?

25          A. Pretty well informed. We kept pretty well

(b)(1)  
1.5(c)

1 informed. And then, of course, [REDACTED]  
2 [REDACTED]

(b)(1)  
1.5(c)

3 Q. [REDACTED]  
4 [REDACTED]  
5 [REDACTED]

6 A. [REDACTED]

7 Q. What type of input did the Department of Defense  
8 have in the negotiating process, specifically the secret  
9 negotiating process on the subject of POWs and MIAs?

10 A. Well, we were involved in discussions right along  
11 on that. One of my problems -- now we're getting away from  
12 POW/MIA, I think, right?

13 Q. Well, I asked specifically what input DOD had in  
14 the negotiations on the subject of POWs.

15 A. The DOD position all along was to have the list  
16 in advance of any agreement. This was our position all  
17 along. We thought our people would be protected in the  
18 best way if we had that. Okay.

19 Secondly, we thought that our Vietnamization  
20 program would not survive unless we had a commitment from  
21 the Russians, because the Paris Accords had the provision  
22 in them that we could replace supplies to the south and the  
23 Russians would replace supplies to the north, but no new  
24 material would be inserted into the war.

25 And I think Vietnamization would have survived

1 and would have been successful if we'd had that kind of  
2 assurance from the Russians. The Russians, in the next  
3 year after the signing -- and I know this for a fact and  
4 you can find it out now that the Russian records are all  
5 open -- put in \$2.7 billion worth of new equipment in  
6 addition to the replacements, whereas we withdrew our  
7 support for replacements for them at the same time the  
8 Russians were putting in that amount.

9 And it really broke the back of the whole  
10 resistance when that happened. I argued for better  
11 restraints as far as the Soviet Union was concerned at the  
12 time.

13 Q. Did the DOD have any input into the specifics  
14 that the Accords and its protocols should include in order  
15 to assure that all of our live POWs throughout Indochina  
16 were released and also in order to ensure that there was as  
17 full as possible an accounting for MIAs?

18 A. You've had Roger up here, haven't you, Roger  
19 Shields?

20 Q. Yes.

21 A. And you've had Larry Eagleburger and talked to  
22 him about it. They were over there working on that at this  
23 time, and they were expressing the DOD position, my  
24 position, at that time. And that was covered by them.

25 Did Roger give you the memos and things like that

1 covering that area? Do you have them?

2 Q. I don't know exactly what you're talking about.

3 A. As far as our input into the Paris Accord?

4 Q. Well, let me show you one document and ask you  
5 some questions about it.

6 On November 8, 1972, at a WSAG meeting that you  
7 were not present at, but there was a WSAG meeting that day

8 --

9 A. Who represented me -- Dave Packard? I'm just  
10 interested. They always would come back and give me a  
11 report on WSAG. I insisted that the first thing they do  
12 when they come in the building is come to my office and  
13 give me a report.

14 Q. Present from Defense on November 8, 1972, were  
15 Kenneth Rush.

16 A. He was my deputy at that time. He took David  
17 Packard's place.

18 Q. G. Warren Nutter.

19 A. And he was Assistant Secretary, ISA.

20 Q. Rear Admiral Daniel Murphy.

21 A. He was my military assistant.

22 Q. And Roger Shields.

23 A. Right. Okay.

24 Q. At that meeting, Dr. Kissinger asked for a  
25 concise list of requirements, essential requirements, on

1       the subject of POWs and MIAs that he could bring over to  
2       the North Vietnamese.

3           A.   What was that date?

4           Q.   November 8, 1972.

5           What Dr. Kissinger said is, "What I need urgently  
6       are two pages of concise language on POW's that I can hand  
7       the North Vietnamese the next time we meet. It has to be  
8       something simple and should clearly state what we want. It  
9       should contain no contingencies. They want an agreement  
10      and we should tell them what we want while the pressure is  
11      on them. That's how we got where we are now, by giving  
12      them brief and simple requirements. I want that paper by  
13      tomorrow night (November 9)."

14           Mr. Kissinger then later says, "I can't handle a  
15      big laundry list. I know that I'm likely to get a list of  
16      every conceivable thing that we would like to have, but  
17      that won't do. I need just two pages saying what we want  
18      on POW's, how they are to be released, the time sequence,  
19      how many, and in what order, when and where they will be  
20      picked up, et cetera."

21           He then says that he needs a paper on MIA's as  
22      well, two separate papers.

23           Do you recall Mr. Rush, Mr. Nutter, Mr. Murphy or  
24      Mr. Shields reporting on that meeting to you?

25           A.   I'm sure they did. I don't recall the exact

1 date, but I'm sure they did. Mr. Eagleburger wasn't at  
2 that meeting, though.

3 Q. Right.

4 On November 10, 1972, in a document that I'm now  
5 marking as Exhibit 11, you sent a memo to Mr. Kissinger,  
6 subject "Essential Negotiating Points," and then your memo  
7 reads: "Attached are those additional elements of an  
8 agreement on a ceasefire in Vietnam which I consider  
9 essential. And it's signed by you.

10 [The document referred to  
11 was marked Laird Exhibit No.  
12 11 for identification.]

13 THE WITNESS: These are additional requirements?

14 BY MR. KRAVITZ:

15 Q. That's what it says.

16 A. These are additional to what?

17 Q. Well, I'm not sure.

18 A. Additional elements. Let's see.

19 [Pause]

20 A. This is now in addition to the paper, the two  
21 page paper?

22 Q. I don't know what you're referring to.

23 A. Well, there was a paper that you told me, that we  
24 had to get back on November 9.

25 Q. Well, I'm assuming that this is what that was and

1       that it was a day late. But is that a bad assumption to  
2       make?

3           A. I think this is the additional elements of an  
4       agreement on a ceasefire in Vietnam, which I consider  
5       essential.

6           Q. So you think there was probably one on the ninth  
7       as well?

8           A. I think there probably was one submitted to the  
9       WSAG, but I am not sure of that. But it seems that these  
10      are additional requirements that I'm recommending. This is  
11      personal, isn't it? Yes, this was sent only to Kissinger.

12          Q. We have not seen another memo from you or anyone  
13       else at DOD on November 9 or November 8 indicating a list  
14       of essential negotiating points. That obviously doesn't  
15       mean that it doesn't exist. But this is the only one that  
16       we've seen.

17          A. Well, these are good points. I don't quarrel  
18       with these points.

19          Q. I am not, either.

20           You seem to be saying that there was probably  
21       another memo out there.

22          A. Well, it just seemed to me that I must have, that  
23       this must be in addition to something. It's unusual for me  
24       to start in with "these are additional points." "Attached  
25       are those additional elements of an agreement on a

1       ceasefire in Vietnam which I consider essential."

2           Q.    Is it possible that Dr. Kissinger showed you the  
3       current language of Article 8, which controlled the release  
4       of prisoners?

5           A.    He could have done that. I cannot recall. But  
6       these points, as I read them over, are essential.

7           Q.    Let me ask you about some of these particular  
8       points that you made. Let me just ask you as a general  
9       point, when you told Dr. Kissinger that you were giving him  
10      a list of essential points, was it your position that each  
11      one of these points was absolutely essential in your  
12      opinion?

13          A.    In my opinion? Yes.

14          Q.    Your first point regarding detained and missing  
15      personnel is on the subject of lists of detained personnel  
16      and it says, "The signatories to the agreement agree for  
17      themselves and their respective associates in conflict that  
18      each party of the conflict will provide name lists of all  
19      military personnel and foreign civilians held captive by  
20      that party. Lists will be provided at the time the  
21      ceasefire commences by each party to all others and to the  
22      Four Party Joint Military Committee and ICCS."

23           I have a couple of questions about that.

24           One is you say that the signatories to the  
25      agreement agree for themselves and their respective

1 associates. Was what you meant by that that the DRV would  
2 be agreeing not only for themselves but also for the Pathet  
3 Lao and the Khmer Rouge?

4 A. Yes.

5 Q. And was it your opinion --

6 A. They were the associates that we were fighting  
7 against.

8 Q. -- was it your opinion that that language, your  
9 language to that effect, needed to be in the formal Paris  
10 Peace Accords?

11 A. It was my opinion.

12 Q. And is it your opinion, then, that the fact that  
13 such language did not appear in the formal peace accords  
14 means that the formal accords lacked that essential point?

15 A. Well, they did lack that essential point. That  
16 was not agreed to in the accords.

17 Q. That's right. The formal accords only required  
18 the release of prisoners in Vietnam.

19 A. Right.

20 Q. Did Dr. Kissinger ever explain to you why it was  
21 that the accords did not require, the formal accords did  
22 not require the release of U.S. prisoners in Laos or  
23 Cambodia?

24 A. They may have, but I can't recall that.

25 Q. The other question I have about this portion that

1 I just read to you --

2 A. That must be dated what, November of --

3 Q. November 10, 1972.

4 A. Tenth, yes. And I think the accords weren't  
5 signed until the 26th?

6 Q. January 27, 1973.

7 A. The 27th. Yes.

8 You know, I was on my way out at that time, and  
9 he may have, as I left the door of the Defense Department -  
10 - does he say he explained it to me?

11 Q. No. We didn't ask him if he explained it to you.

12 A. I just don't recall that last, that must have  
13 been about my last day, wasn't it?

14 Q. January 27th?

15 A. Yes, wasn't it?

16 Q. I'm not sure.

17 A. I'm not sure when Elliott got confirmed.

18 Q. Mr. Richardson told us --

19 A. He was held up for a day or two and I didn't have  
20 a deputy. And, although I ordered a taxicab to pick me up  
21 on January 20, I couldn't walk out the front door because  
22 they didn't have anybody and I didn't have a deputy.. So I  
23 may have stayed around for a few days.

24 But I'm not sure of the exact date.

25 Q. I think you were gone by the day the accords

1        were signed.

2            A.    Okay.

3            Q.    You also indicated in the portion that I just  
4        read to you--

5            A.    On those dates, correct them if they're wrong.

6            Q.    Okay.

7                You indicate here as one of your essential points  
8        that lists should be provided at the time that the ceaefire  
9        commences by each party to all others and to the Four Party  
10      Joint Military Committee and ICCS.

11              My question is why are you not telling Dr.  
12      Kissinger that it's an essential point, or that it's  
13      essential that lists be turned over before the ceasefire?

14              A.    Well, I think at that particular time they'd  
15      already gone beyond that sometime in September.

16              Q.    So, in other words, it was really, that position  
17      --

18              A.    I think they were notified. Weren't we notified?  
19      You've got the documents here. I think we were notified  
20      that he'd agreed to a different position in September  
21      sometime. Isn't that correct?

22              Q.    I don't know what you were notified. I have no  
23      idea what you were notified.

24              A.    Well, you see, I don't have the documents here.  
25      Is there a document that shows that he had agreed to that

1       in September?

2           Q.   Well, there are tons of documents which show  
3       that. I just don't have any idea whether you were told  
4       about that. I mean, as we told you, in June of --

5           A.   I think I was told in September that they had  
6       come to an accord on that point.

7           Q.   Okay.

8                   So, in other words, you took that as a given,  
9       when you were preparing these essential points?

10          A.   I think in November I would have taken it as a  
11       given.

12          Q.   Okay. Let me ask you about this.

13                   There also was an agreement in October --

14          A.   You got -- I'm not trying to hedge on this, but,  
15       I mean, you got when I was notified of the agreement.

16          Q.   If we have it, I haven't seen it.

17                   Let me just ask my question.

18                   Tell me if I'm wrong. What you're saying is that  
19       because you were notified in September of 1972 that there  
20       was an agreement, that there was an agreement that the  
21       lists would be exchanged on the day of the ceasefire, when  
22       you gave your essential points in November of 1972, you  
23       took that September agreement as a given on that point?

24          A.   I did.

25          Q.   Okay.

1           In October of 1972, there was an agreement  
2         reached whereby, as a side understanding between the U.S.  
3         and the DRV not to be put in writing in the formal  
4         agreement, the DRV would assure us that it would arrange  
5         the release of U.S. POW's in Laos, but that the release of  
6         U.S. POW's in Laos would not be part of the formal  
7         agreement.

8           My question to you is if you knew about that, why  
9         did you list as an essential point in November that the  
10        release of U.S. prisoners in Laos had to be part of the  
11        formal agreement and not list it as an essential point in  
12        November?

13          A. I did not know about the side agreement. I  
14         cannot recall being told about that side agreement.

15          Q. What were you being told about prisoners in Laos  
16         by Dr. Kissinger?

17          A. That it had not been finalized. That's why I  
18         tried to be strong on that. I thought that was important.

19          Q. Do you remember when it was that Dr. Kissinger  
20         told you that the issue of prisoners in Laos had not been  
21         finalized?

22          A. I don't know whether he ever did tell me that,  
23         but he never told me it had been finalized.

24          Q. The reason I'm asking these questions is that  
25         there are a bunch of cables that go back and forth between

1 President Nixon and Pham Van Dong in October of 1972, which  
2 discuss the question of the release of U.S. POW's from Laos  
3 as a side agreement or what they call a unilateral  
4 declaration by the DRV. And it's the language. They  
5 almost kind of go past each other with the language not  
6 really, it really just doesn't mesh all that well. It's  
7 unclear whether the two sides really do have the same  
8 understanding as to what the situation is, or whether they  
9 don't have the same understanding.

10 A. I thought it was very important to have an  
11 understanding on that point. I know that.

12 Q. You obviously, from your essential points,  
13 thought it was very important that it be part of the formal  
14 agreement.

15 A. I did.

16 Q. Did you ever get any indication from Dr.  
17 Kissinger or President Nixon as to their views as to the  
18 stability of this side understanding about U.S. prisoners  
19 in Laos?

20 Did they think they had an agreement or was it  
21 really up in the air?

22 A. I didn't know they didn't have an agreement until  
23 the agreement came down.

24 Q. Okay. But you knew it was up in the air as of  
25 November?

1           A. I knew that it was up in the air in November and  
2         I hoped that it could be taken care of.

3           Q. What was your understanding as of January 27,  
4         1973, as to whether there was any agreement on U.S.  
5         prisoners in Laos?

6           I mean, the accords, the formal accords you knew  
7         --

8           A. The formal accords I knew didn't take care of it.

9           Q. Right.

10          Did you know about the so-called side  
11         understanding?

12          A. I did not know about it. To my recollection, if  
13         you've got some document that they notified me on that, I  
14         really can't remember it. I cannot remember it.

15          Q. Mr. Laird, I don't have any document. You keep  
16         asking me that. I'm not trying to trick you.

17          A. Well, you know, it's hard for me to remember  
18         exactly if something was sent to me, and I cannot remember  
19         any document along that line.

20          I thought the accord, when it was finally signed,  
21         did not have that essential point that I'd asked for.

22          Q. And you're absolutely right.

23          A. But now you're telling me that they had a side  
24         agreement.

25          Q. Well, they say they had a side agreement, and

1 it's unclear whether they did or not. That's why I wanted  
2 to know whether you had any information on it?

3 A. To my knowledge, I did not know about the side  
4 agreement. I cannot recall being told of the side  
5 agreement.

6 Now, maybe tomorrow you'll find some damn letter  
7 that there is around here. But I do not recall it, and I  
8 don't believe that I would have, certainly in November I  
9 didn't know abot it, and I'm sure I didn't know about it  
10 after. It's as sure as I can be.

11 MR. KRAVITZ: Let's go off the record for a  
12 moment.

13 THE WITNESS: You see, the problem is I don't  
14 know about the side agreements. Now, maybe that was given  
15 to the Cabinet after I left.

16 MR. KRAVITZ: Off the record.

17 [Discussion off the record.]

18 MR. CODINHA: Why don't we go back on the record.

19 THE WITNESS: See, somebody had to play a little  
20 bit of the hard liner on this thing and that was up to me  
21 because these were my people. I considered them my people.

22 BY MR. KRAVITZ:

23 Q. One of the other essential points that you make  
24 in this exhibit, which is Exhibit 11, is that, in your  
25 opinion, it was essential to have the formal agreement

1 require that an accounting be provided on MIA's throughout  
2 Indochina. That's something that the accords did not  
3 include as well.

4 Do you know how it was or why it was that Dr.  
5 Kissinger gave away that point in the negotiations?

6 A. No, I don't.

7 Q. Was that something that, in your opinion, could  
8 have been left or should have been left to future  
9 diplomatic efforts after the accords were signed, which is,  
10 in essence, what it was?

11 A. No.

12 I wanted to have an understanding on that point.

13 You know, this was my position.

14 Q. I understand that. I understand.

15 Were these subjects that you ever discussed with  
16 Dr. Kissinger, or was it just in this paper that you sent  
17 over?

18 A. Oh, no. We discussed those matters many times.  
19 Dr. Kissinger was very interested in the POW/MIA question,  
20 and we had many discussions about it.

21 Q. You also wrote in this paper that it was  
22 essential for the accords to give permission for teams,  
23 including U.S. personnel, to conduct crash and grave site  
24 inspections throughout Indochina. I take it that was an  
25 absolutely essential part, should have been an essential

1 part of the agreement, in your opinion?

2 A. As far as I was concerned, it was essential.

3 Q. Were these, if you think back to the portion of  
4 the WSAG meeting from the day before this that I read to  
5 you, when Dr. Kissinger said what I want is a list of items  
6 that I can bring to the North Vietnamese and that we can  
7 get, in your opinion -- and I understand you weren't in  
8 Paris for the negotiations -- but, in your opinion, were  
9 these the type of essentials that we really could have  
10 gotten in light of the way the war was being resolved?

11 A. In my opinion, yes.

12 Q. So, in other words, even though there was a  
13 settlement rather than a victory, you think that we could  
14 have achieved crash site, grave site access throughout  
15 Indochina?

16 A. Well, I felt that it was very essential to  
17 protect the position of the POW's and the MIA's,  
18 particularly the MIA's.

19 Q. Okay. But that's a different question. Its  
20 essential character, I think everyone here would agree --

21 A. You see, there are a lot of things that I would  
22 like to have added in the accords that aren't there. I  
23 would like to have had some enforcement as far as the  
24 supplies coming in to the north, because that supply  
25 situation in the north was the thing that wrecked the whole

1 program of the south.

2 Q. I guess what my point is, the next point that you  
3 make in this paper is that the U.S. should have gotten  
4 authorization or it was essential for the U.S. to have  
5 authorization to have its aircraft fly over crash sites and  
6 grave sites throughout Indochina for purposes of accounting  
7 for the missing. I guess my question is in a settlement  
8 like this --

9 A. You see --

10 Q. Let me ask the question -- in a settlement like  
11 this, is it realistic for us to assume that Dr. Kissinger  
12 could have achieved that essential point?

13 I don't think anyone would disagree with you that  
14 it's essential in terms of getting the full accounting.

15 A. Oh, I wouldn't have sent the memo if I didn't  
16 think it was essential.

17 Q. I understand that. The question is is it  
18 realistic? In other words, can you expect the North  
19 Vietnamse to agree to have U.S. airplanes flying over its  
20 territory?

21 A. Well, we've had other agreements along that line.  
22 I wasn't there negotiating, so I cannot put myself in the  
23 same position as Dr. Kissinger. I was giving my opinion of  
24 what was essential from the standpoint of the POW's and the  
25 MIA's.

1           Q. I understand that. My point is I think everyone  
2 would agree with you that each one of these points was  
3 essential in order to get the full accounting.

4           A. Well, I think I would have been derelict in my  
5 duty if I wouldn't have called these things to the  
6 attention.

7           Q. I agreee with you. But that's not my point.

8           A. And I think every one of those things has proven  
9 itself to be improtant.

10          Q. I think you're absolutely right.

11           The question is could Dr. Kissinger have gotten  
12 these points at the negotiating table absent a military  
13 victory?

14          A. I think it's very unfair to ask that question of  
15 me because I wasn't at the negotiating table. If I was at  
16 the negotiating table, perhaps I could give you an opinion.

17           I've been on a lot of conferences between the  
18 House and the Senate over the years, and I've seen some  
19 things happen and I've seen some things that didn't happen.

20           I've seen things when I was a son-of-a-bitch and  
21 I got what I wanted in the conference. And negotiation is  
22 something you really have to be there to appreciate.

23          Q. Okay.

24          A. You're not satisfied with my answer.

25           [General laughter]

1 Q. Well, it may not be an answerable question. I'm  
2 sorry.

3 A. No, no. But I'm trying to be as sweet as I can  
4 in answering your question.

5 [General laughter]

6 Q. Sweet to me or to Dr. Kissinger?

7 A. To both of you.

8 [General laughter]

9 A. I don't go around looking for a lot of extra  
10 hassles. But I do stand behind the paper.

11 Q. Okay. I understand that.

12 MR. KRAVITZ: Why don't we take a five minute  
13 break, and then come back and finish up.

14 [A brief recess was taken.]

15 BY MR. KRAVITZ:

16 Q. I want to ask you some questions about a document  
17 I'm marking as Exhibit 12. It's a document dated October  
18 11, 1973. So it's after the time that you left the  
19 Pentagon.

20 [The document referred to  
21 was marked Laird Exhibit No.  
22 12 for identification.]

23 THE WITNESS: 1973. All right.

24 BY MR. KRAVITZ:

25 Q. It's a [REDACTED] document relating to

1       the subject of U.S. POW's in Laos, and it indicates that  
2       intelligence available to the [REDACTED] shows that  
3       as to American POW's in Laos, there were 86 last known to  
4       be alive on the ground, and there are some other categories  
5       here.

6                 I want to show this to you. If you'd like,  
7       please turn back to the first page and see if any of that  
8       looks familiar to you.

9       A. This document?

10      Q. Or any of the information in it.

11      A. No, I can't say that it does.

12      Q. [REDACTED] a source that was viewed  
13       as reliable?

14      A. Not as far as Vietnam was concerned.

(u)(1) 15  
1.5(c) 16         See, I guess [REDACTED]  
[REDACTED] at this time.

17                 MR. MCNEILL: I don't think he was the  
18       I don't think he was at that level at that point.

19                 THE WITNESS: Oh, sure he was. Yes. He  
20       succeeded [REDACTED] He would have been [REDACTED]  
1.5(c) 21         [REDACTED]

22                 I never got a lot of good information from  
23       [REDACTED] on Vietnam, if that's what you mean.

1.5(c) 24         BY MR. KRAVITZ:

25      Q. Is it your sense, then, that this type of

1       intelligence information is unlikely to be as reliable even  
2       as what the United States Government was getting out of  
3       Laos?

4 The reason we ask about it is it's obviously a  
5 much higher number than we've seen.

6           A. I have never seen this, and I would put more  
7         confidence in the American intelligence than I would in  
8         [REDACTED] as far as that section of the world is  
9         concerned.

10 I would probably put the greatest confidence, a  
11 higher level of confidence, in [REDACTED]

Q. Was there any indication from  
that you were aware of?

14 A. Not to my knowledge.

Q. Why was ██████████ superior to American intelligence?

A. I said superior to [REDACTED] in that area of the world.

Q. Superior to [REDACTED] okay, but not superior to American?

A. No, because, I mean, there's a lot of French spoken over there. The [REDACTED] were very much involved in there, and at that particular time the [REDACTED] -- and I talked to him on many occasions about Southeast Asia -- was [REDACTED] He was the [REDACTED]

1 at that particular time.

(b)(1) 2  
1.5(c) 3 I did try to talk with these [REDACTED] to try to  
get as much information as I can. And I would have to tell  
you that I think the [REDACTED] were superior to the [REDACTED]  
(b)(1), (5)(C) 4  
5 during that period.

(b)(1) 6 I had contacts with all of those [REDACTED]  
1.5(c) 7 [REDACTED] and I talked to them regularly. I even talked to  
8 the Pope about intelligence over there. But I do think the  
[REDACTED] were superior to the [REDACTED] -- end of question, or  
9 (b)(1), (5)(C) 10 answer.

11 Q. We understand that at some point after the so-  
12 called Kennedy list was provided and its completeness, or  
13 likely incompleteness, was recognized --

14 A. I'm not trying to downgrade the Kennedy list --  
15 it was an important list to have -- in my previous  
16 testimony to you or --

17 Q. No. I understand.

18 We have information that at some point shortly  
19 after the receipt of the Kennedy list you had, you held  
20 some kind of a breakfast meeting or a meeting at the  
21 Pentagon in which you had big photographs of 14 U.S.  
22 military men who were believed to be prisoners of war in  
23 Southeast Asia and whose names had not appeared on the  
24 lists.

25 Do you recall that event?

1 A. I really can't recall. I remember -- this was in  
2 response to the Kennedy list?

3 Q. That's our understanding. That's what we've been  
4 told.

5           A. Well, I think I tried to show that I was  
6 satisfied the list was not complete. That's all. And I  
7 may have used some pictures.

8 Q. I want to show you what we've marked as Exhibit  
9 No. 13, and, first, as to whether that refreshes your  
10 recollection as to whether such a meeting was held; and,  
11 second, if those were the photographs that were actually  
12 provided at that meeting.

13 [The document referred to  
14 was marked Laird Exhibit No.  
15 13 for identification.]

16 [Pause]

17 THE WITNESS: I know that this, was this at a  
18 briefing that I gave to the press?

19 BY MR. KRAVITZ:

20 Q. Our understanding was it was a breakfast briefing  
21 for the press.

22           A. Right. Well, I did that often, you know. I'd  
23 have luncheons and breakfasts for the press regularly.

24                   This certainly seems legitimate to me. I don't  
25                   recall every one of these names. But I'm sure that I felt

the list was incomplete, and I was trying to get as much attention as I could publicly to the plight of the POW's.

3 Q. I'm going to show you what's been marked as  
4 Exhibit No. 14, which is a memorandum dated December 23,  
5 1970, to you from the Assistant Secretary of Defense for  
6 ISA reporting on the analysis of the Kennedy list.

7 [The document referred to  
8 was marked Laird Exhibit No.  
9 14 for identification.]

10 BY MR. KRAVITZ:

11 Q. I'll ask you if that refreshes your memory that  
12 there were 26 servicemen formally listed as POW who were  
13 not on the list?

14 That's on the second page of the memo

15 A. Who is this from?

16 Q. I think it's from Nutter, Assistant Secretary of  
17 Defense for ISA.

18 A. Now what's the question?

19           Q. The question is whether that refreshes your  
20 memory, that when the Kennedy list came out and was  
21 analyzed, it became clear that 26 people who were carried  
22 formally as prisoner of war by the services were not listed  
23 on the list

24 A. I think that's correct yes

25 This list -- there were several lists put out so

1 I don't want to get confused. I think Cora Weiss came back  
2 with a list, too, and she had either five more or five less  
3 people on it than the Kennedy list. I can't remember  
4 whether it was five more or five less. But there certainly  
5 were people that we had identified as POW's that were not  
6 on the lists.

7 Q. Right.

8 A. I'm not sure which had the most on it, but there  
9 was a discrepancy of five, I think.

10 Q. On page 2 of this document, it says 26.

11 A. I recall this generally.

12 Q. I'm going to ask you some questions about the end  
13 of your term or the time period in which your term as  
14 Secretary of Defense ended.

15 We've spoken before that you think you left the  
16 Pentagon some time around January 20, 1973.

17 A. I think it was around, I think Elliott was  
18 confirmed either the 26th or 27th. Now, don't hold me to  
19 the exact date.

20 Q. We're not holding you to the exact date.

21 A. I had to stay until there was a confirmation.

22 Q. How much turnover was there among the highest  
23 officials at the Pentagon at or around that time?

24 A. Well, there was quite a turnover because the new  
25 secretaries did not have authority over personnel.

1           Q.    What do you mean by that?

2           A.    Well, they didn't appoint their own people.

3           Q.    The new Secretary of Defense and Deputy  
4           Secretary?

5           A.    Right.

6           Q.    Who did appoint their people?

7           A.    They were appointed mostly by the White House.

8           Q.    When you say "their own personnel," do you mean  
9           the assistant secretaries?

10          A.    And I mean the Deputy, too. I had my own Deputy.  
11          He wasn't a White House appointee. As a matter of fact,  
12          when I announced Packard as the Deputy Secretary of  
13          Defense, the President had never even met him.

14          Q.    And that changed in the second administration,  
15          the second term?

16          A.    Right.

17          They did not have authority to appoint their own  
18          people.

19          Q.    So, in other words, when Mr. Richardson was  
20          appointed, he was specifically told that his Deputy and all  
21          of the assistants would be appointed by the White House?

22          A.    Right.

23          Q.    What was your understanding as to the reason for  
24          that change?

25          A.    I don't know. They might not have liked the

1 authority I had.

2 MR. MCNEILL: If I may say, at the beginning of  
3 the second Nixon Administration, it was a policy pretty  
4 much through the Executive Branch. There was quite a  
5 turnover in many of the Cabinet departments on this same  
6 basis.

7 THE WITNESS: But I told my people not to send in  
8 letters of resignation.

9 MR. MCNEILL: I'm just saying I didn't think this  
10 was effective at the Defense Department.

11 THE WITNESS: But they were removed.

12 BY MR. KRAVITZ:

13 Q. You told your assistants and your Deputy not to  
14 send in letters of recommendation.

15 A. Well, my Deputy had already gone over to become  
16 Under Secretary of State.

17 Q. That was Mr. Rush?

18 A. Right. But the service secretaries were all  
19 changed, too.

20 Q. Do you know how it came to be that William  
21 Clements was appointed Deputy Secretary of Defense?

22 A. Well, I don't know. He was a candidate for  
23 Secretary, and I think the President decided that he would  
24 rather have Richardson.

25 He was a very active person to be considered when

1 I was there. But I never appointed him.

2 Q. That's what I wanted to ask you. It's been  
3 suggested to us that President Nixon wanted Mr. Clements to  
4 be your Deputy during the first term and that you chose  
5 others.

6 Is that consistent with your recollection?

7 A. That's correct. But that was my choice.

8 Q. Right, and I understand that.

9 A. I had great deputies. I had David Packard for  
10 three and a half years, and he was outstanding. Then I had  
11 Secretary Rush, who I'd gotten to know, and he served for  
12 probably nine months.

13 But I did, I kept on people, too, you know. I  
14 kept on Johnny Foster in R&D. I appointed Bob Moots, who  
15 was a career man over there, as Comptroller because I'd  
16 gotten to know him on the Appropriations Committee and  
17 worked with him very closely.

18 I picked John Chafee as Secretary of the Navy.

19 I had Stan Resor stay for one year, and then I  
20 appointed Bob Frokey, who was a friend of mine and had been  
21 my, we went to high school, grade school, and everything  
22 else together. I made him Secretary of the Army. He was  
23 an outstanding Secretary of the Army. He went from there  
24 to become Chairman of Equitable Insurance Company in New  
25 York. And I got Bob Siemens, who I'd known very well up at

1 MIT.

2 I can go through all my appointments, if you're  
3 interested in them.

4 I changed, I did change NSA immediately, and I  
5 changed DIA. I'm not sure what you --

6 Q. Let me move to the end of your term.

7 When did the people who were leaving, the  
8 officials who were not as high as you, but people maybe one  
9 or two levels below you, when did they start leaving?

10 A. Well, they started leaving as soon as they  
11 announced new appointments, really. I mean, first Bo  
12 Calloway was announced for Secretary of the Army, and  
13 Clements was announced as Deputy.

14 They brought in a new comptroller to take Bob  
15 Moots' place. They got rid of Johnny Foster. They made  
16 quite a few changes.

17 Q. Were the Paris Peace Accords signed at a time of  
18 great transition at the Pentagon?

19 A. I would think so.

20 Q. In your opinion, did that fact have an effect on  
21 the Defense Department's participation in the accords and  
22 in the follow-up to the accords?

23 A. I can't say that it did or didn't. I wasn't  
24 there and I don't want to pass judgment.

25 Q. Well, you were there during the time period

1 leading up to the accords.

2 Were people leaving already before you left in  
3 January of 1973?

4 A. No. My people stayed with me. They didn't leave  
5 until I left, and there's only one that left, and, that is,  
6 I made the arrangements for him to leave. That was John  
7 Chafee, so that he could run for the Senate up in Rhode  
8 Island, and I was encouraging him to do that.

9 I then got John Warner to serve, who was the  
10 deputy and a long-time friend of mine.

11 Q. What did you do after you left your position as  
12 Secretary of Defense?

13 A. Well, I went to work for the Readers' Digest, and  
14 I've been with them ever since. I represent, I'm on the  
15 Readers' Digest Board, and I'm their senior council for  
16 their national, international affairs. We operate in 22  
17 countries around the world, and I try to represent and show  
18 the flag for the Readers' Digest.

19 Q. Was it in that position that you were in Europe  
20 in the spring of 1973?

21 A. No.

22 In the spring of 1973, John Warner and I made a  
23 little trip over there to see the change of command of the  
24 Sixth Fleet, and then also I received certain awards from  
25 the German and French Governments, you know, their medals

1 or something.

2 Q. Did there come a time after you left your  
3 position at the Pentagon that you had a position at the  
4 White House?

5 A. Yes, there did.

6 Q. What was that position and when did you start?

7 A. I start there, I think I reported on the fifth or  
8 maybe the first, or fifth -- between the first and fifth of  
9 June.

10 Q. And your position was what?

11 A. I was Senior Counselor for Domestic Affairs.

12 Q. What did that job entail?

13 A. Well, it had to do with all of the work of the  
14 domestic council and the responsibilities that the budget,  
15 overseeing the budget, as far as the next year's budget was  
16 being prepared, and representing the President on all  
17 domestic legislative matters and with the Cabinet.

18 Q. How long did you hold that position?

19 A. I stayed there for about a year.

20 Q. Were you also working for Readers' Digest at that  
21 point?

22 A. No. No.

23 Q. So that was later?

24 A. Well, I had agreed to go to work for Readers'  
25 Digest, but I couldn't work for Readers' Digest and be at

1       the White House. I was also served, I did serve as a  
2       member of the National Security Council during that period,  
3       too.

4           Q. During which period? When you were at the White  
5       House?

6           A. When I was at the White House.

7           Q. Where were you, if you know, in, say, March and  
8       April of 1973?

9           A. Let's see. I was down, I think, at -- I believe  
10      -- I was in Florida, but I can't tell you the exact place.  
11      I think I was at John's Island. But I might have been at  
12      Boca. But I think I was at John's Island.

13           I was really taking it a little easy during that  
14      period.

15           Q. Was there a reason that you gave up your position  
16      as Secretary of Defense --

17           A. No.

18           Q. -- other than just that the term was over?

19           A. I announced that I would, the day I was sworn in,  
20      I announced that I'd have a taxicab there on January 20, at  
21      the building, because I had had disputes with McNamara. I  
22      told McNamara once that he'd been there too long, and he  
23      almost came across the table and started using a few swear  
24      words at a hearing up here on the Hill. And George Mann,  
25      who was Chairman of the Committee, quieted him down a

1 little bit and made him apologize to me. But I really did  
2 think that McNamara had been there too long.

I told myself that I would not do that in that  
job. And so, it was announced. I guarantee you the day I  
was sworn in, I announced that that cab would be there.  
And I would have been out of there on the 20th if it hadn't  
been for the Senate up here screwing things up.

8 Q. With Mr. Richardson?

9 A. Yes.

10 Q. Did you have any contact with the Nixon  
11 Administration regarding, in March and April of 1973,  
12 regarding their decisions as to how to respond to  
13 violations of the accords by the DRV?

14 A. No. They did not contact me.

15 I didn't expect them to, though, either. I mean,  
16 I was --

17 Q. You were out of the administration

18 A Right

19 Q. Mr. Laird, I'm going to show you what we've  
20 marked as Exhibit 15, which is a memorandum that you sent  
21 to the President some time after October 26, 1972, when Dr.  
22 Kissinger made his "Peace is at Hand" statement at a press  
23 conference.

24 [The document referred to  
25 was marked Laird Exhibit No.

1                           15 for identification.]

2                           BY MR. KRAVITZ:

3                           Q. Do you recall when that memorandum was sent to  
4                           the President?

5                           A. Let me read it.

6                           Q. Okay.

7                           [Pause]

8                           A. I don't know, but I imagine this probably was  
9                           around Christmas of 1972.

10                          Q. You think that was written before the Christmas  
11                          bombing?

12                          A. I think so, because a lot of the wives and the  
13                          POW people were coming in, and they had been led to believe  
14                          that people would be home for Christmas -- you know.

15                          Have you talked to some of them? Have they  
16                          appeared before your committee?

17                          Q. POW wives?

18                          A. Right.

19                          Q. I don't know if they've testified before the  
20                          committee, but we're certainly aware --

21                          A. They used to come in and see me. I had an open  
22                          door for all of them, and there were quite a few of them in  
23                          town because we had helped them organize, you see.

24                          I think this must have been around the time of  
25                          the Christmas because of reacting strongly to any North

1 Vietnamese violations after our POW's are returned, thereby  
2 gaining the support of Congress and the rest of the world.  
3 This was, really, dictated on the POW issue. It must have  
4 been the Christmas bombing period.

5 Q. Is there any reason why Dr. Kissinger is not part  
6 of this discussion? It's interesting to us that this is a  
7 memo, really, from you, Ken Rush, and Tom Moorer, directly  
8 to the President.

9 Is there some explanation for why Dr. Kissinger's  
10 --

11 A. No. I imagine Dr. Kissinger got this, though.  
12 Did he say he didn't get it?

13 Q. He wasn't asked.

14 A. I'm sure he got it. I'm sure he got this. I  
15 wouldn't keep something like that from Kissinger.

16 Q. Do you recall what the response to this memo was  
17 from the President?

18 A. I think we went ahead and did some bombing.

19 Q. We certainly did that.

20 You don't recall the President responding to you  
21 or what he said?

22 A. No. But he turned it down. I know that. And we  
23 went ahead with the bombing, and I signed the orders.

24 This was rejected, in other words.

25 Q. I understand that.

1           A. You don't always succeed. But this was in  
2         agreement. The people that saw that memo were my Deputy  
3         and the Chairman of the Joint Chiefs. And I think Tom will  
4         tel you that he was aware of this memo.

5           Q. I'm sure he was.

6           One of the things --

7           A. I tried to even emphasize by writing in there, if  
8         you see on --

9           Q. I was just going to ask you about that.

10           One of the recommendations that you make in this  
11         memo is that there should be strong reaction to any North  
12         Vietnamese violations after the POW's are returned.

13           Moving forward a month in time to January of  
14         1973, was it your understanding when the accords were about  
15         to be signed that the intention of the administration was  
16         to react strongly to any violations of the accords?

17           A. That was my understanding.

18           Q. Was it your sense that there truly was a resolve  
19         within the Administration to react strongly to violations  
20         by the DRV?

21           A. That is what they told me. I was not sure that  
22         you would get that kind of reaction because of the  
23         conditions in the country at that time.

24           Q. Let me ask you this question. One thing that's  
25         been suggested to us was that really the 60-day period

1 following the signing of the Accord, during which troops  
2 were being withdrawn and prisoners were being released, was  
3 viewed by the Administration as really almost like a buffer  
4 zone.

5 I think what they mean by that is, people who  
6 have suggested this, is that if at any point during that  
7 60-day period there were violations of the Accords by the  
8 DRV -- either infiltration or problems with POW releases -  
9 - we could always just stop the troop withdrawal. In other  
10 words, we still really had that leverage.

11 A. We didn't have much leverage left.

12 Q. That's what I want to ask you. Is that a  
13 suggestion you think is an accurate one?

14 A. There wasn't much leverage left except for  
15 bombing from outside the area, because our troop levels  
16 were pretty low at that time. I think the South Vietnamese  
17 could have handled the situation and were handling it  
18 pretty well during that period.

19 But what broke their back was the withdrawal of  
20 support from the United States, and even when President  
21 Ford sent up his request I remember I tried to help him on  
22 that, but you just couldn't get anything. And that was for  
23 about \$200 million, as I remember it, and the Russians were  
24 pouring in all sorts of material at that time, and there  
25 just wasn't much support for that here in this country.

1           It had been a long war. I know it was never  
2 called a war, but it was always called a war by me.

3           Q. I want to ask you about some decisions that were  
4 made in March of 1973, and from what I understand about  
5 what you all have been talking about, this set of cables  
6 was apparently discussed in the newspaper today, but let's  
7 put that to one side, and let me tell you what the evidence  
8 shows about these cables.

9           I want to ask you if you have any comments or  
10 understanding for us as to why whatever happened happened.

11           On March 21, 1973, General John Deane, who was  
12 the Acting Director of the DIA, sent a memorandum to  
13 Admiral Moorer indicating in essence that it was the DIA's  
14 conclusion that the so-called Laos list of 10 from February  
15 1, 1973, was grossly inadequate and that there were likely  
16 additional live POWs being held by the Pathet Lao in Laos.

17           Admiral Moorer has testified that he, armed with  
18 that information, went to President Nixon and that there  
19 was general agreement between those two that there was a  
20 real problem with the POW list from Laos.

21           A. He wouldn't have gone without the Secretary's  
22 permission.

23           Q. Again, let's leave the newspaper article out of  
24 this.

25           A. No. But I've talked to him, and I know Tom

1       Moorer, and he doesn't operate that way.

2           Q. I'm not trying to imply that he did. Whether he  
3       went there with the Secretary of Defense or not, I don't  
4       know. Just he went there.

5           A. Okay. Go ahead.

6           Q. In other words, I'm not accusing him of anything.  
7       I'm just saying he discussed the matter with the President.  
8       I don't know whether the Secretary of Defense was there or  
9       not.

10          A. He might not have been. But I know that Tom  
11       Moorer wouldn't discuss something with the President  
12       without letting the Secretary know.

13          Q. All I'm telling you is what Admiral Moorer told  
14       me. And he didn't tell me that the Secretary of Defense  
15       was there. He didn't tell me the Secretary of Defense was  
16       not there. All he told me was he talked to the President.

17          A. Right. Sure.

18          Q. He told me that the President ordered him to  
19       direct CINCPAC to halt the troop withdrawal unless and  
20       until the Pathet Lao came up with a new prisoner list,  
21       complete prisoner list of U.S. POWs held in Laos, and said  
22       when they would release them and where they would release  
23       them. We have the cable going out to CINCPAC to that  
24       effect.

25          A. Sure.

1           Q. That was March 22, 1973. The next day, on March  
2           23, 1973, there's another cable from Admiral Moorer that  
3           goes out, this time to General Woodward, the head of the  
4           Four-Party Joint Military Commission -- CINCPAC was one of  
5           the addressees -- saying we will complete the troop  
6           withdrawal on March 28, 1973, the date it was scheduled to  
7           be completed, as long as we get the 10 on the February 1  
8           list back, and no longer is there a requirement that there  
9           be an additional list provided before the troop withdrawal  
10           is completed.

11           Do you know anything about how we got from the  
12           March 22 decision of President Nixon to the March 23  
13           decision? Again, one fact I left out was Admiral Moorer  
14           said that the second cable also was at the direction of the  
15           President.

16           A. No, I don't. I don't know because of that, but  
17           I've talked to Admiral Moorer, you know, and I talked to  
18           him today. He explained it to me, and I think it's up to  
19           him to explain it, not to me.

20           Q. I know what his explanation is, or at least I  
21           know what he said in his deposition, but what I was  
22           wondering was whether you had any information aside from  
23           what Admiral Moorer has told you.

24           A. No. I have not had any information except what  
25           Admiral Moorer has told me.

1           Q. On March 29, 1973, President Nixon made an  
2 address to the nation on TV.

3           A. What date was that now?

4           Q. March 29, 1973. This was one day after the troop  
5 withdrawal was completed, one day also after the final  
6 release of U.S. prisoners of war.

7           In that address President Nixon announced that  
8 all of our American POWs are on their way home. Was that  
9 an accurate statement, in your opinion, at the time?

10          A. Well, if I would have been there, I would not  
11 have been that positive. But sometimes you have trouble  
12 changing the President's speeches. I tried to change one  
13 speech about they were going after the COSVN headquarters.  
14 I tried to get that particular statement out of a speech  
15 back in 1969, and I couldn't get it out. And it haunted  
16 him for a long time. You don't want to be that positive.

17          Q. What do you think should have been the official  
18 position of the government on this subject?

19          A. Well, I think the official position was, to the  
20 best of our ability, we've gotten our POWs out, and we'll  
21 continue to investigate all crash sites, all visual  
22 sightings and so forth and so on. I don't think you can be  
23 that positive in this kind of business. I've always tried  
24 to be a little careful on that.

25           That's kind of like going after COSVN. As an

1 example, COSVN headquarters was all over Cambodia, and to  
2 say that you're going to destroy it with bombing over there  
3 was a very bad mistake. And I tried to get it out of  
4 there, and I didn't get it out.

5 I argued with Kissinger about taking it out.  
6 He'll tell you that. I gave him hell about that. But they  
7 thought that was a lot of punch.

8 Q. On April 12, 1973, Roger Shields gave a press  
9 briefing at the Pentagon, the subject being Operation  
10 Homecoming.

11 A. What day is this now?

12 Q. April 12, 1973. In that press conference Dr.  
13 Shields made this statement: "We have no indications that  
14 any live Americans remain in Indochina."

15 I assume you have the same reaction to that  
16 statement that you had to President Nixon's statement from  
17 March 29.

18 A. I think you have to be careful about that in  
19 order to maintain credibility not only with the press but,  
20 more importantly, the American people. You have to be very  
21 careful in broad statements like that. I'm not questioning  
22 Roger's credibility. He's a very conscientious person, and  
23 I brought him into the Department of Defense.

24 And I have no reason to doubt that he believed  
25 that.

1           Q.   Do you have any information or has anyone ever  
2       said anything to you indicating that Roger Shields was told  
3       to say what he said on April 12, 1973?

4           A.   I would doubt if Roger Shields could be told what  
5       to say.

6           Q.   The answer to the question is no?

7           A.   I have no information along that line. I just  
8       don't believe if I told Roger to do something that he  
9       didn't want to do that he would do it. I wouldn't want  
10      people working for me that operated that way. There are  
11      many times i was told to do things by the President, but I  
12      wouldn't do them, and I would hope there would be times  
13      when people that worked for me in Defense, if they didn't  
14      want to do it, they'd tell me.

15          Q.   I want to ask you one question about the subject  
16       of status classifications. You remember we spoke this  
17       morning about how that was the duty of the service  
18       secretaries to make status classifications, and also to  
19       conduct reviews of status classifications.

20           And I remember you said that that was something  
21       that you, as Secretary of Defense, did not intrude upon.

22          A.   No. I tried to talk to them about bringing  
23       togetherness as far as the intelligence -- Navy, Air Force,  
24       Army, and Marines -- but I did not set their  
25       classifications.

1           Q. You certainly didn't participate personally in  
2 decisions in their actual classifications in particular  
3 cases?

4           A. No. But I talked to their intelligence chiefs  
5 about that particular issue, and I remember at one  
6 breakfast meeting I had with them I discussed that with  
7 them.

8           Q. On June 8, 1973, William Clements, who at that  
9 time was Acting Secretary of Defense -- it was in-between  
10 the time that Secretary Richardson left and the time that  
11 Secretary Schlesinger was confirmed -- Mr. Clements issued  
12 a very short directive to all the service secretaries  
13 indicating that any time there was a proposal that the  
14 classification or that the status of a missing serviceman  
15 be changed to prisoner of war status -- in other words,  
16 either from KIA to POW or from MIA to POW -- the case first  
17 had to be brought to Mr. Clements for his personal review.

18           Mr. Clements has told us that over the course of  
19 the next several months between 50 nd 75 cases were brought  
20 to his attention for his review pursuant to this order, and  
21 that none of those 50 to 75 cases satisfied his  
22 requirements for a change of status to prisoner of war  
23 status.

24           Did you know about this?

25           A. No.

1           Q. Does that strike you as unusual or bizarre  
2         interference by the Acting Secretary of Defense in the  
3         business of the service secretaries?

4           A. Well, I don't want to comment on that. There  
5         must be some reason he did it. I do not know the reason.  
6         I did not handle it that way. My deputies didn't either.

7           Q. When you say that there must have been some  
8         reason, is it your opinion that there must have been some  
9         extraordinary reason to justify that type of participation  
10        by the Acting Secretary of Defense in the service  
11        secretaries' statutory decisionmaking authority?

12          A. I really can't comment on this, because I don't  
13         know why he did it. You've asked him. He must have had a  
14         reason.

15          Q. He actually told us he must have had a reason,  
16         but he couldn't think of what it was.

17          A. Oh, okay. Seriously, I don't know why it would  
18         be changed that way.

19                   [Discussion off the record.]

20                   BY MR. KRAVITZ:

21          Q. What was your personal response or reaction to  
22         the North Vietnamese lists of U.S. prisoners of war when  
23         those lists were provided to us on January 27, 1973?

24          A. My personal view was I hoped they were correct.

25          Q. Did you think that they were?

1           A. I thought there were probably more involved as  
2 far as numbers were concerned, but I was only concerned  
3 about the number.

4           Q. What do you mean by that?

5           A. Well, I thought there were probably a few more  
6 prisoners of war.

7           Q. In Vietnam?

8           A. Yes.

9           Q. What about when the list came out from Laos on  
10 February 1, 1973, including 9 Americans and one Canadian?  
11 Did you believe that that list was incomplete as well?

12          A. Somehow I thought there would be a few more than  
13 that. I had no evidence. It was just a reaction that I  
14 had. I have no evidence.

15          Q. Regarding the Laos list?

16          A. Right.

17          Q. So is it accurate to say, then, that in your  
18 opinion there was stronger evidence that the Vietnam list  
19 was incomplete than there was that the Laos list was  
20 incomplete?

21          A. I wouldn't say stronger evidence. I just had a  
22 feeling there might be a few more. You see, evidence. You  
23 mean sightings and [redacted] and things like that? I think  
24 most of the letter people were accounted for, except a  
25 couple that had probably died in prison after the [redacted]

(u)(1), (c)<sub>1</sub>

2                   And our prisoners of war have confirmed those. I  
3 believe you probably have testimony showing that we did  
4 lose a few people in prison, and I think those have been  
5 confirmed. [REDACTED]

6                   But, you know, this is kind of a gut reaction. I  
7 was hopeful there would be more. Could I say that?

8                   Q. You can say whatever you want. I guess the  
9 difference, from our perspective, is that in Vietnam there  
10 were 56 people who were officially carried by the services  
11 as POW whose names weren't on the lists, and, as you  
12 testified earlier, at least as a general matter no one was  
13 classified as a POW unless there was credible, reliable, or  
14 evidence that was deemed to be credible and reliable.

15                  On the other hand, in Laos there was nowhere near  
16 that number of people carried POW whose names didn't appear  
17 on the list. And that's what I thought you meant when you  
18 said that really was a guess or a feeling in Laos.

19                  What I'm trying to get a sense of is, was there  
20 a qualitative difference in your response to the two lists?

21                  A. No, I don't think so. It was more of a hopeful.

22                  Q. What do you think that the U.S. Government could  
23 have done in late January, when the lists were provided to  
24 us and they appeared to be incomplete, if anything?

25                  A. Well, I think you have to put yourself in that

1 position at that particular time. We'd cut our troops back  
2 to a very low level. I think the only thing you could have  
3 done was used air power, and I think that politically, from  
4 a political viewpoint, at that particular time there would  
5 have been a tremendous outpouring of criticism of the  
6 Administration if they'd gone back out with a big bombing  
7 operation of the North, particularly from the Congress.

8 Q. In your opinion, once the Accords were signed in  
9 late January 1973, was it a realistic option for the  
10 government simply to halt the troop withdrawal as a means  
11 of responding to enemy violations?

12 A. No. We were down to a level where that wouldn't  
13 have made a difference. But I think air power could have  
14 made some difference. But that option was limited because  
15 of the political situation within the United States.

16 I think you have to put yourself back in that  
17 period a little bit, and it's hard to do. I mean, it's a  
18 long time ago. It's difficult.

19 Q. Would you agree with a statement which actually  
20 was made by another witness before the Committee that in  
21 essence the situation that we found ourselves in on January  
22 27, 1973, was that we were forced to take or leave the  
23 lists that the North Vietnamese gave to us, and that we  
24 really had no leverage to do anything to respond to them?

25 A. No. I think public opinion on POW and the

1 missing in action thing has always been on the side of the  
2 United States, because these people had been violating for  
3 so long the Geneva Accords, I think public opinion was very  
4 important at that time. I still think it is.

5 Q. So you think that back in late January or early  
6 February 1973 the public would have supported a military  
7 reaction?

8 A. I don't think they would have supported a  
9 military reaction. I think they would have supported  
10 bringing down tremendous diplomatic pressure on the North  
11 Vietnamese, but I'm not sure they would have supported  
12 bombing at that time.

13 See, I felt that the bombing just before  
14 Christmas was probably very difficult to get. You know, I  
15 had to explain it, and nobody else did. No one else would  
16 stand up over at the White House and do it. I had to go  
17 down to the press room and explain it. And that was not an  
18 easy period.

19 MR. KRAVITZ: Did you have something you wanted  
20 to say?

21 MR. MCNEILL: No.

22 BY MR. KRAVITZ:

23 Q. Those are all the questions that we have for you.  
24 I want to thank you for spending so much time, particularly  
25 since you spent more time.

1           A. Gee, this must be the longest deposition that  
2 you've taken so far.

3           Q.    Actually, we've had a lot of two-day depositions,  
4       but let me just ask you -- you certainly don't have to, but  
5       if there's anything you'd like to say in summary, you  
6       certainly have an opportunity to do that.

7 A. No. I think we've done pretty well.

8 MR. KRAVITZ: Well, thank you very much for  
9 spending so much time with us.

10 THE WITNESS: Glad to do it, and I'll see you  
11 Monday, 9:30.

12 [Whereupon, 3:42 p.m., the taking of the instant  
13 deposition ceased.]

15 **Signature of the Witness**

16 SUBSCRIBED and SWORN TO before me this \_\_\_\_\_ day of  
17 \_\_\_\_\_, 19\_\_\_\_\_.  
  

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19 Notary Public

20 My Commission Expires:

• The following table summarizes the results of the experiments.

~~TOP SECRET~~